

## COUNCIL COMMUNICATION

Department: <u>Public Works</u>	Ordinance No. _____	First Reading <u>August 10, 2009</u>
Case/Project No.: <u>FY10-06B</u>	Resolution No. <u>09-227</u>	
Applicant: <u>Greg Reeder, Public Works Director</u>		

### SUBJECT/TITLE

Council consideration of a resolution setting a public hearing for 7:00 p.m. on August 24, 2009, for the East 29<sup>th</sup> Avenue Sewer Extension. Project #FY10-06B.

### BACKGROUND/DISCUSSION

- Recently, Public Works was approached by a resident of E. 29<sup>th</sup> Avenue with a request for a sanitary sewer extension on his street. His septic system has failed and due to his lot dimensions and terrain, rebuilding the septic is not an option. Currently there is no sanitary sewer on E. 29<sup>th</sup> Avenue.
- Proposed is a sewer extension that will service and benefit E. 29<sup>th</sup> Avenue, located north of Harry Langdon Blvd and east of I-80.
- Letters of support have been received from all five property owners of six parcels benefitted. One additional parcel on the street is already connected to the sewer. Two property owners will tap-on to the new sewer immediately.
- The benefitted area of this project contains 9 acres. CBPW estimates that at ultimate build-out of the benefitted area could reasonable contain 13 lots. In the benefitted area there are 5 existing single family homes and 8 more that could be built along E. 29<sup>th</sup> Avenue, each with 55 foot frontages.
- The engineering estimate is \$130,000.00. The ultimate build out is 13 lots and the benefitted area is 9 acres. The anticipated Tap-on fee is:  
    (\$130,000.00 x / 13 lots = \$10,000 per benefitted lot, **or**  
    (\$130,000.00 x / 9 acres = \$14,400 per benefitted acre.

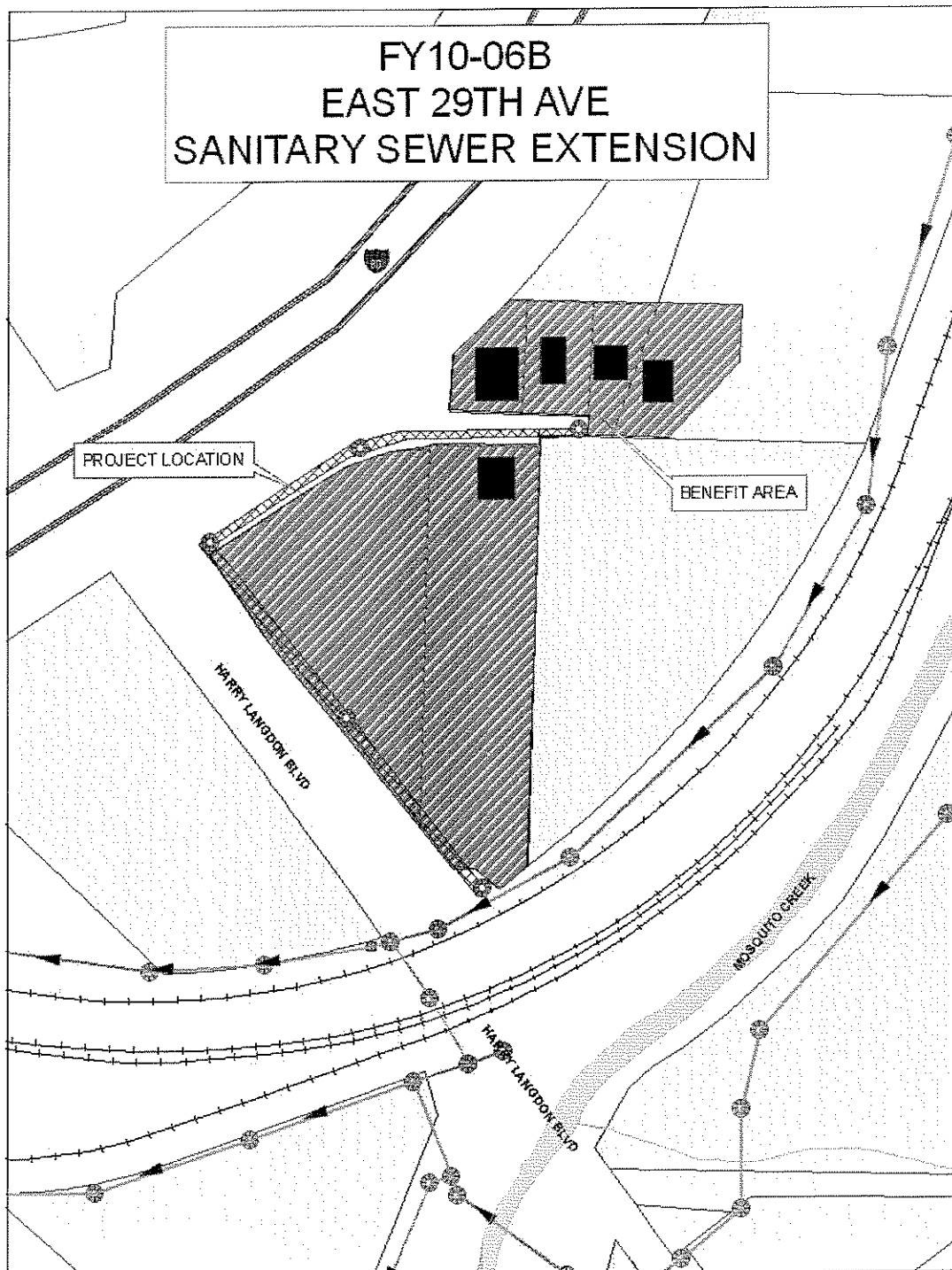
Final fees will be set with tap-on fee ordinance to council upon project completion. Homeowners will be directly responsible for lateral connections and abandonment of septic systems.

- CBPW recommends, that a per benefitted lot tap-on fee schedule be used to lower the cost to existing property owner while retaining the ability to be reimbursed when new houses connect to the sewer extension.

### RECOMMENDATION

Approval of this resolution.

FY10-06B  
EAST 29TH AVE  
SANITARY SEWER EXTENSION



**RESOLUTION**  
**NO 09-227**

**RESOLUTION DIRECTING THE CLERK TO PUBLISH NOTICE  
AND SETTING A PUBLIC HEARING ON THE  
PLANS, SPECIFICATIONS, FORM OF CONTRACT  
AND COST ESTIMATE FOR THE  
EAST 29<sup>TH</sup> AVENUE SEWER EXTENSION  
FY10-06B**

WHEREAS, the City wishes to make improvements known as the East 29<sup>th</sup> Avenue Sewer Extension, within the City, as therein described; and

WHEREAS, the plans, specifications, form of contract and cost estimate are on file in the office of the city clerk.

NOW, THEREFORE, BE IT RESOLVED  
BY THE CITY COUNCIL  
OF THE  
CITY OF COUNCIL BLUFFS, IOWA

That the City Clerk is hereby ordered to set a public hearing on the plans, specifications, form of contract and cost estimate for the East 29<sup>th</sup> Avenue Sewer Extension setting August 24, 2009, at 7:00 p.m. as the date and time of said hearing.

ADOPTED  
AND  
APPROVED

August 10, 2009

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Thomas P. Hanafan, Mayor

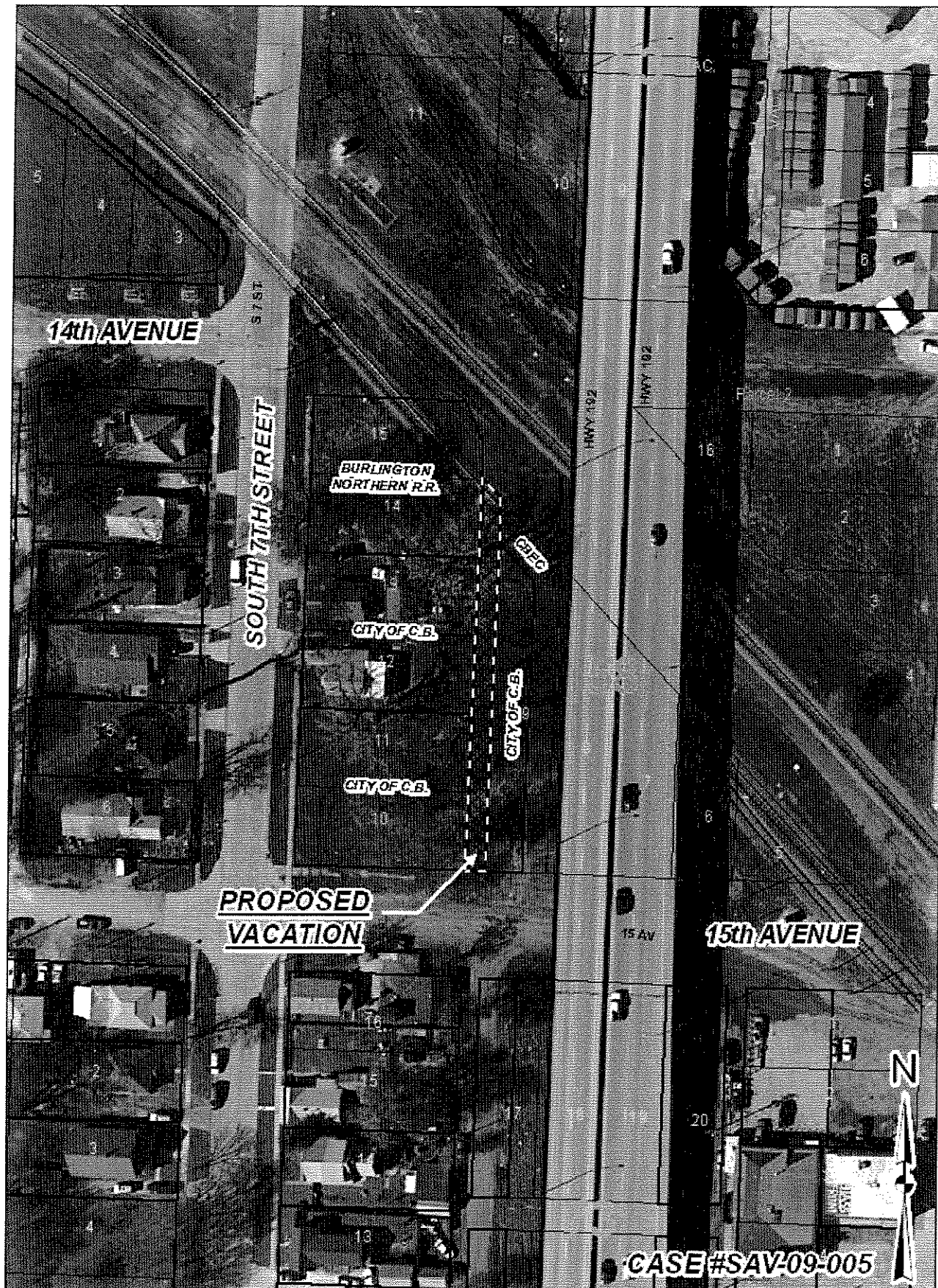
ATTEST:

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Marcia L. Worden, Acting City Clerk

## Council Communication

Department/Applicant: Community Development Department  Case #SAV-09-005	Resolution of Intent No. <u>09-210</u> Resolution to Dispose No. <u>09-228</u>	City Council: 07/27/09  Planning Commission: 07/14/09  Set Public Hearing: 07/27/09  Public Hearing: 08/10/09
<b>Subject/Title</b> Request of Community Development Department to vacate the West north/south alley in Block 58, Riddles Subdivision. This alley lies east of South 7 <sup>th</sup> Street between 14 <sup>th</sup> and 15 <sup>th</sup> Avenue.		
<b>Background</b> The City of Council Bluffs owns the majority of that part of Block 58, Riddles Subdivision lying between 14 <sup>th</sup> and 15 <sup>th</sup> Avenues, the South Expressway and South 7 <sup>th</sup> Streets. The Community Development Department is proposing to vacate the above named alley so the City owned property can be redeveloped with residential structures. The alley is unopened and dead-ends into a railroad track. It measures 12 feet wide by approximately 235 feet long for a total of 2,820 square feet.  Qwest Communications has underground facilities within the right-of-way and request an easement be retained. No other adverse comments have been received from any utilities or City Departments.  The only other property owners in this block are Burlington Northern Railroad and CBEC Railway, Inc. They own part of Lot 9 on the east side of the alley and Lots 14 and 15 on the west side, as shown on the attached map. No response has been received from any railroad representative regarding the proposed vacation.		
<b>Recommendation</b> In order to allow for the redevelopment of this block, the Community Development Department recommends vacating the West north/south alley in Block 58, Riddles Subdivision, subject to a utility easement being retained until the existing facilities are removed or relocated.		
<b>Public Hearing</b> Gayle Malmquist appeared before the Planning Commission in favor of the request. No one appeared in opposition.		
<b>Planning Commission Recommendation</b> The Planning Commission recommends vacating the west north/south alley in Block 58, Riddles Subdivision subject to retaining a utility easement until the existing facilities are removed or relocated.		
VOTE: AYE 8    NAY 0    ABSTAIN 0    ABSENT 3    Motion: Carried		
<b>Attachments:</b> Map showing requested right-of-way vacation		
<b>Prepared By:</b> Rebecca Sall, Planning Technician, Community Development Department		



RESOLUTION NO. 09-228

A RESOLUTION TO VACATE AND TO DISPOSE OF THE WEST NORTH/SOUTH ALLEY IN BLOCK 58, RIDDLES SUBDIVISION, CITY OF COUNCIL BLUFFS, POTTAWATTAMIE COUNTY, IOWA.

WHEREAS, following public hearing and having given careful study to the proposal, the City Council determines that city-owned right-of-way described as follows: The West north/south alley in Block 58, Riddles Subdivision lying east of South 7<sup>th</sup> Street between 14<sup>th</sup> and 15<sup>th</sup> Avenue, City of Council Bluffs, Pottawattamie County, Iowa, is of no benefit to the public and should be vacated; and

WHEREAS, pursuant to Iowa Code Section 354.23, the City Council declares its intent to dispose of this City right-of-way by conveying and quitclaiming all of its right, title, and interest in it to the abutting property owners; and

WHEREAS, this conveyance is subject to the reservation of a permanent and perpetual utilities easement of way in favor of the City of Council Bluffs, for the maintenance of any and all utilities equipment presently in place, and for such reconstruction, re-emplacement and repair thereof which said City and its licensees and/or franchise grantees may in the future deem necessary and proper, and for the removal of any improvements emplaced thereon by the grantees, or their successors or assigns, necessitated by the reconstruction, re-emplacement, or repair of such utilities, such removal to be at the sole expense of grantees or their successors or assigns and without cost to the City, its licensees and/or franchise grantees, and without obligation to repair or replace such improvements, and subject to any and all other easements and right-of-way of record and those not of record.

NOW, THEREFORE, BE IT RESOLVED  
BY THE CITY COUNCIL  
OF THE  
CITY OF COUNCIL BLUFFS, IOWA:

That the above-described city right-of-way is hereby vacated and conveyed as follows:

The City of Council Bluffs and all successors in interest: The East 1/2 of the vacated West north/south alley in Block 58, Riddles Subdivision abutting the West 24 feet of Lot 9, except railroad and except 20 feet on the north.

CBEC Railway, Inc. and all successors in interest: The East 1/2 of the vacated West north/south alley in Block 58, Riddles Subdivision abutting the CBEK Railway right-of-way in Lot 9 (Parcel #754436506005).

The City of Council Bluffs and all successors in interest: The West 1/2 of the vacated West north/south alley in Block 58, Riddles Subdivision abutting Lots 10, 11, 12 and 13.

Burlington Northern Railroad and all successors in interest: The West 1/2 of the vacated West north/south alley in Block 58, Riddles Subdivision abutting Lots 14 and 15 except CBEK railroad right-of-way across Lots 14 and 15.

CBEC Railway, Inc. and all successors in interest: The West 1/2 of the vacated West north/south alley in Block 58, Riddles Subdivision abutting CBEC railroad right-of-way across Lots 14 and 15 (Parcel #754436506004).

BE IT FURTHER RESOLVED

That the Mayor and the City Clerk be and are hereby authorized, empowered and directed to execute this resolution conveying the City's interest in the above-described alley right-of-way in consideration of the vacation application fee already paid, and;

BE IT FURTHER RESOLVED

That the City Clerk is directed to deliver this resolution and any attached documents to the County Recorder according to Iowa Code 354.23.

ADOPTED  
AND  
APPROVED: August 10, 2009

\_\_\_\_\_  
Thomas P. Hanafan, Mayor

ATTEST: \_\_\_\_\_  
Marcia L. Worden, Acting City Clerk

STATE OF IOWA    )  
COUNTY OF        )ss  
POTTAWATTAMIE)

On this \_\_\_\_\_ day of \_\_\_\_\_, before me the undersigned, a Notary Public in and for said County and said State, personally appeared Thomas P. Hanafan and Marcia L. Worden, to me personally known, who, being by me duly sworn, did say that they are the Mayor and Acting City Clerk respectively, of the said City of Council Bluffs, Iowa, a Municipal Corporation, that the seal affixed hereto is the seal of said Municipal Corporation; that said instrument was signed and sealed on behalf of the said City of Council Bluffs, Iowa, by authority of its City Council; and that said Thomas P. Hanafan and said Marcia L. Worden, as such officers, acknowledged the execution of said instrument to be the voluntary act and deed of said City, by it and by them voluntarily executed.

\_\_\_\_\_  
Notary Public in and for said State

## Council Communication

Department: Community Development  Case/Project No. _____	Resolution No. <u>09-229</u>	City Council: 8-10-09
<b>Subject/Title</b> Public hearing on city owned property located in the 1400 block of South 7 <sup>th</sup> Street		
<b>Location</b> 1409 and 1421 South 7 <sup>th</sup> Street along with adjacent City owned property, Lots 10-13, Block 58, Riddles Subdivision		
<b>Background/Discussion</b> <u>Background</u> On June 22, 2009, City Council set a public hearing for August 10, 2009 on the disposition of City owned property in the 1400 block of South 7 <sup>th</sup> Street. Because the property was purchased and redeveloped using Economic Development Initiative funds, a federal environmental review must be completed. The noise levels at this site due to the proximity of the railroad must be mitigated before any federally assisted residential construction can occur. City staff is still working through the decibel calculations and has not issued the Request for Proposals for the disposition of these lots. Until the noise issue can be resolved, the lots cannot be sold.		
<b>Recommendation</b> The Community Development Department recommends that City Council hold the public hearing on August 10, 2009 for the disposition of these lots in connection with the Katelman Redevelopment Project but continue it to a later date.		
<b>Attachments</b> Map		

Submitted by: Brenda Carrico, Program Coordinator, Community Development Department

Approved by: Donald D. Gross, Director, Community Development Department



## Site Plan

1409 & 1421 South 7<sup>th</sup> Street and Adjacent Lots, Council Bluffs, Iowa.



## Council Communication

Department: Community Development  Case #SAV-09-006  Applicant: David Milner	Resolution of Intent No <u>09-211</u>  Resolution to Dispose No. <u>09-230</u>	City Council: 07/27/09  Planning Commission: 07/14/09  Set Public Hearing: 07/27/09  Public Hearing: 08/10/09
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### Subject/Title

Request of David Milner, 3414 – 2<sup>nd</sup> Avenue, to vacate the remainder of the east/west alley in Block 13, Ferry Addition, which abuts Lots 11 through 20. This portion of alley lies between 1<sup>st</sup> and 2<sup>nd</sup> Avenue and runs west from South 34<sup>th</sup> Street for 220 feet.

### Background

The applicant, David Milner, has erected a 6-foot privacy fence around his property at 3414 – 2<sup>nd</sup> Avenue. This fence crosses the entire width of the alley. Even though the alley is not improved, the owner of 3420 – 2<sup>nd</sup> Avenue has indicated that the alley is used as access to the rear of the existing 4-unit apartment building.

Mr. Milner is now requesting vacation of the subject right-of-way. The majority of the alley was previously vacated in August, 1987 as shown on the attached map.

After notifying City departments and utilities, the following response has been received from MidAmerican Energy: “MAC has overhead electric distribution facilities located in the above alley serving customers in the 3400 Block of 2<sup>nd</sup> Avenue. We need to have access to these facilities. In fact, a new fence at 3414 – 2<sup>nd</sup> Avenue has impeded our access to the electric line and services. The fence needs to be removed. We are not in favor of the proposed alley vacation.”

Qwest has buried cable in the alley and Cox Communications also has facilities in the right-of-way. There is no sanitary or storm sewer.

As stated above, the owners of 3420 – 2<sup>nd</sup> Avenue, Michael and Julie Richards, are opposed to the request and unwilling to acquire their portion of right-of-way. All other owners are in favor and willing to acquire.

### Comments

The City Council approved and adopted the *Policy and Procedures for Alley, Street and Right-of-Way Vacations* by Resolution No. 98-53 on February 1998. Two of the objectives of this Policy is to “ensure that no property owner is deprived of required and reasonable access” and to “protect all existing and proposed public utilities located in the right-of-way and to maintain necessary utility easements”. Vacation of this portion of alley will deny reasonable access to the property at 3420 – 2<sup>nd</sup> Avenue and will impede access to the existing utilities currently located in the alley.

### Recommendation

The Community Development Department recommends that the request to vacate the remainder of the east/west alley in Block 13, Ferry Addition which abuts Lots 11 through 20 be denied for the reasons cited above and that the existing 6-foot privacy fence at 3414 – 2<sup>nd</sup> Avenue be removed from across the right-of-way immediately.

### Public Hearing

David Milner, 3414 2<sup>nd</sup> Avenue, the applicant, appeared before the Planning Commission in favor of the request. Mike Richards, 3420 2<sup>nd</sup> Avenue, appeared in opposition.

### Planning Commission Recommendation

The Planning Commission recommends vacating the remainder of the east/west alley in Block 13, Ferry Addition, abutting Lots 11 through 20, subject to retaining a utility easement.

VOTE: AYE 8 NAY 1 ABSTAIN 0 ABSENT 2 Motion: Carried

**Attachments:** Map showing requested right-of-way vacation. Pictures of vacated alley to the west.

**Prepared By:** Rebecca Sall, Planning Technician, Community Development Department



1ST AVENUE

REQUESTED  
VACATION

Interstate Echo

Previously 1/2 acre

Richards

Miner

L-7 Properties

Swenson

SOUTH 34TH STREET

2ND AVENUE

3420

3414

2 AV

3RD AVENUE

CASE #SAV-09-006



RESOLUTION NO. 09-229

A RESOLUTION TO VACATE AND TO DISPOSE OF THE REMAINDER OF THE EAST/WEST ALLEY IN BLOCK 13, FERRY ADDITION WHICH ABUTS LOTS 11 THROUGH 20, CITY OF COUNCIL BLUFFS, POTTAWATTAMIE COUNTY, IOWA.

WHEREAS, following public hearing and having given careful study to the proposal, the City Council determines that city-owned right-of-way described as follows: The remainder of the east/west alley in Block 13, Ferry Addition abutting Lots 11 through 20 which lies between 1<sup>st</sup> and 2<sup>nd</sup> Avenue and runs west from South 34<sup>th</sup> Street for 220 feet, City of Council Bluffs, Pottawattamie County, Iowa, is of no benefit to the public and should be vacated; and

WHEREAS, pursuant to Iowa Code Section 354.23, the City Council declares its intent to dispose of this City right-of-way by conveying and quitclaiming all of its right, title, and interest in it to the abutting property owners; and

WHEREAS, this conveyance is subject to the reservation of a permanent and perpetual utilities easement of way in favor of the City of Council Bluffs, for the maintenance of any and all utilities equipment presently in place, and for such reconstruction, re-emplacement and repair thereof which said City and its licensees and/or franchise grantees may in the future deem necessary and proper, and for the removal of any improvements emplaced thereon by the grantees, or their successors or assigns, necessitated by the reconstruction, re-emplacement, or repair of such utilities, such removal to be at the sole expense of grantees or their successors or assigns and without cost to the City, its licensees and/or franchise grantees, and without obligation to repair or replace such improvements, and subject to any and all other easements and right-of-way of record and those not of record.

NOW, THEREFORE, BE IT RESOLVED  
BY THE CITY COUNCIL  
OF THE  
CITY OF COUNCIL BLUFFS, IOWA:

That the above-described city right-of-way is hereby vacated and conveyed as follows:

Michael A. and Julie A. Richards and all successors in interest: The South 1/2 of the vacated east/west alley abutting Lot 11, Block 13, Ferry Addition.

David K. and Maren E. Milner and all successors in interest: The South 1/2 of the vacated east/west alley abutting Lot 12, Block 13, Ferry Addition.

L & T Properties, LLC and all successors in interest: The South 1/2 of the vacated east/west alley abutting Lots 13 and 14, Block 13, Ferry Addition.

Delores A. Swenson and all successors in interest: The South 1/2 of the vacated east/west alley abutting Lot 15, Block 13, Ferry Addition.

Interstate Echo Corporation and all successors in interest: The North 1/2 of the vacated east/west alley abutting Lots 16 through 20, Block 13, Ferry Addition.

BE IT FURTHER RESOLVED

That the Mayor and the City Clerk be and are hereby authorized, empowered and directed to execute this resolution conveying the City's interest in the above-described alley right-of-way in consideration of the vacation application fee already paid, and;

BE IT FURTHER RESOLVED

That the City Clerk is directed to deliver this resolution and any attached documents to the County Recorder according to Iowa Code 354.23.

ADOPTED  
AND  
APPROVED:

August 10, 2009

\_\_\_\_\_  
Thomas P. Hanafan, Mayor

ATTEST:

\_\_\_\_\_  
Marcia L. Worden, Acting City Clerk

STATE OF IOWA    )  
COUNTY OF        )ss  
POTTAWATTAMIE)

On this \_\_\_\_\_ day of \_\_\_\_\_, before me the undersigned, a Notary Public in and for said County and said State, personally appeared Thomas P. Hanafan and Marcia L. Worden, to me personally known, who, being by me duly sworn, did say that they are the Mayor and Acting City Clerk respectively, of the said City of Council Bluffs, Iowa, a Municipal Corporation, that the seal affixed hereto is the seal of said Municipal Corporation; that said instrument was signed and sealed on behalf of the said City of Council Bluffs, Iowa, by authority of its City Council; and that said Thomas P. Hanafan and said Marcia L. Worden, as such officers, acknowledged the execution of said instrument to be the voluntary act and deed of said City, by it and by them voluntarily executed.

\_\_\_\_\_  
Notary Public in and for said State



## Council Communication

<b>Department:</b> Parks, Recreation and Public Property  <b>Case/Project No.</b>  <b>Applicant:</b> Larry N. Foster	<b>Ordinance No.</b> _____  <b>Resolution No.</b> <u>09-231</u>	<b>Council Date:</b> July 27, 2009 <b>Public Hearing:</b> Aug. 10, 2009
<b>Subject/Title</b>		
City Council consideration approved the plans, specifications and form of contract for the Mid-City Trail project on August 10, 2009.		
<b>Background/Discussion</b>		
<p>The proposed improvement project consists of a 10 foot wide ½ mile recreational trail. The trail runs parallel to 13<sup>th</sup> Street from Broadway to Avenue G and then runs along Ruth Nelson Road to North 15<sup>th</sup> Street, where it joins with a new trail section on the east side of the new Lakin Campus.</p> <p>The project will be let through the Iowa Department of Transportation with the plans available through the IDOT in Ames. Plans were available to contractors on July 22, 2009, with the letting date scheduled for August 18, 2009.</p> <p>By previous Resolutions, the Council approved an agreement with Iowa Department of Transportation to provide partial funding through the 2009 American Recovery and Reinvestment Act (ARRA), and authorized an Agreement with HGM Associates, Inc for design services associated with this project.</p> <p>The funding sources for this project are;</p> <ul style="list-style-type: none"><li>• The original Department of Transportation ARRA funding in the amount of \$200,000.</li><li>• Community Development funds not to exceed \$200,000.</li><li>• \$150,000.00, to be provided by General Obligation Bonds allocated for Trail Development in the 2007-2008 and 2008-2009 Capital Improvement Plan.</li><li>• Finally, the City will soon be advised if additional Department of Transportation ARRA funding has become available for this project. The current estimated additional ARRA funding is \$100,000.00 and should this or any amount of additional ARRA funding be allocated to this project, the above describe Community Development and General Obligation Bond funding would be reduced, with the first source to be reduced or eliminated being the Community Development source.</li></ul>		
<b>Recommendation</b>		
I recommend that the City Council approve the Public Hearing on the plans, specifications and form of contract for the Mid-City Trail project.		

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Larry Foster, Director

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Thomas P. Hanafan, Mayor

RESOLUTION NUMBER 09-231

RESOLUTION APPROVING THE PLANS, SPECIFICATIONS, AND FORM OF  
CONTRACT FOR THE MID-CITY TRAIL PROJECT.

WHEREAS, The Plans, Specifications and Form of Contract for the Mid-City Trail project  
are on file in the office of the City Clerk; and

NOW, THEREFORE, BE IT RESOLVED  
BY THE CITY COUNCIL  
OF THE  
CITY OF COUNCIL BLUFFS, IOWA

That the Plans, Specifications and Cost Estimate for the Mid-City Trail project are hereby approved  
and the City Clerk is hereby authorized to advertise for bids for said project.

ADOPTED  
AND  
APPROVED

August 10, 2009

\_\_\_\_\_  
Thomas P. Hanafan,

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
Marcia L. Worden,

\_\_\_\_\_  
Acting City Clerk

## COUNCIL COMMUNICATION

Department: Public Works Ordinance No. \_\_\_\_\_ First Reading August 10, 2009  
Case/Project No.: FY10-05E-1 Resolution No. 09-232  
Applicant: Greg Reeder, Public Works Director

### SUBJECT/TITLE

After the Public Hearing council consideration of a resolution approving the plans and specifications and authorizing the City Clerk to advertise for bids setting September 3, 2009, at 10:00 a.m. as the date and time for the bid opening for Wastewater Disinfection Ultra Violet Light Equipment Procurement project. Project # FY10-05E-1.

### BACKGROUND/DISCUSSION

- The City of Council Bluffs Water Pollution Control Plant (WPCP) was placed into operation in 1973. Over the past 3 decades several additions and upgrades have been undertaken to maintain treatment process, upgrade the system and replace equipment that has reached its service life.
- Disinfection of final effluent was last performed at the WPCP in 1998 based on the then current federal regulations.
- The Iowa Department of Natural Resources (DNR), in accordance with new federal regulations, mandated in a letter dated March 9, 2007, that the City of Council Bluffs WPCP provide for disinfection of its final effluent in accordance with the new federal regulations on or before March 15, 2011.
- The following schedule was developed jointly by the City of Council Bluffs and the IDNR regarding the mandate:

Monitoring of effluent through December 31, 2008, final effluent disinfection

Preliminary design submittal for disinfection system on or before April 15, 2009

Final design submittal for disinfection system on or before December 1, 2009

Bid contract documents for disinfection system on or before January 31, 2010

Progress report on construction on or before September 1, 2010

Substantial completion of disinfection system on or before December 31, 2010

Effluent to meet new regulations for disinfection March 15, 2011

- The study of the various methods of providing disinfection of the WPCP effluent has been completed. Ultraviolet (UV) light disinfection was determined to be the most cost effective. The consultant will now undertake the detailed equipment procurement and WPCP facility design to incorporate UV disinfection into the treatment process.



- In order to meet the mandated schedule the city will proceed with two projects. FY10-05E-1 – Procurement of U.V. disinfection equipment. FY10-05E-2 – Construction of facilities and installation of U. V. disinfection equipment.

- The schedule for FY10-05E-1 Procurement of disinfection equipment is as follows:

Set Public Hearing	July 27, 2009
Hold Public Hearing	August 10, 2009
Bid Letting	September 3, 2009
Award	September 14, 2009

Once the specific manufacturer is determined through the procurement process, Fox Engineering will proceed with the design of the facilities additions and improvements to house the selected U. V. disinfection equipment.

- The schedule for construction and installation of U. V. equipment will be as follows to meet the mandated schedule set by IDNR.

Set Public Hearing	November 23, 2009
Hold Public Hearing	December 14, 2009
Bid Letting	January 28, 2010
Award	February 8, 2010

- The disinfection project is project FY10-05E in the CIP. Project cost is \$3.0 million and will be funded by state Revolving Funds (SRF) available to the city through the Iowa State Clean Water Revolving Fund.

## **RECOMMENDATION**

Approval of this resolution.

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Greg Reeder, Public Works Director

**RESOLUTION APPROVING THE PLANS, SPECIFICATION,  
FORM OF CONTRACT AND COST ESTIMATE FOR THE  
WASTEWATER DISINFECTION ULTRA VIOLET LIGHT EQUIPMENT  
PROCUREMENT  
FY10-05E-1**

WHEREAS, A Notice of Public Hearing was published as required by law, and a public hearing was held on August 10, 2009.

That the plans, specifications, form of contract and cost estimate are hereby approved for the Wastewater Disinfection Ultra Violet Light Equipment Procurement and the City Clerk is hereby authorized to advertise for bids for said project.

Thomas P. Hanafan, Mayor

1.  

## COUNCIL COMMUNICATION

Department: Public Works

Ordinance No. \_\_\_\_\_

First Reading August 10, 2009

Case/Project No.: FY10-04B

Resolution No. 09-233

Applicant: Greg Reeder, Public Works Director

### SUBJECT/TITLE

After the Public Hearing council consideration of a resolution approving the plans and specifications and authorizing the City Clerk to advertise for bids setting September 3, 2009, at 10:00 a.m. as the date and time for the bid opening for Stormwater Relief Wells. Project #FY10-04B.

### BACKGROUND/DISCUSSION

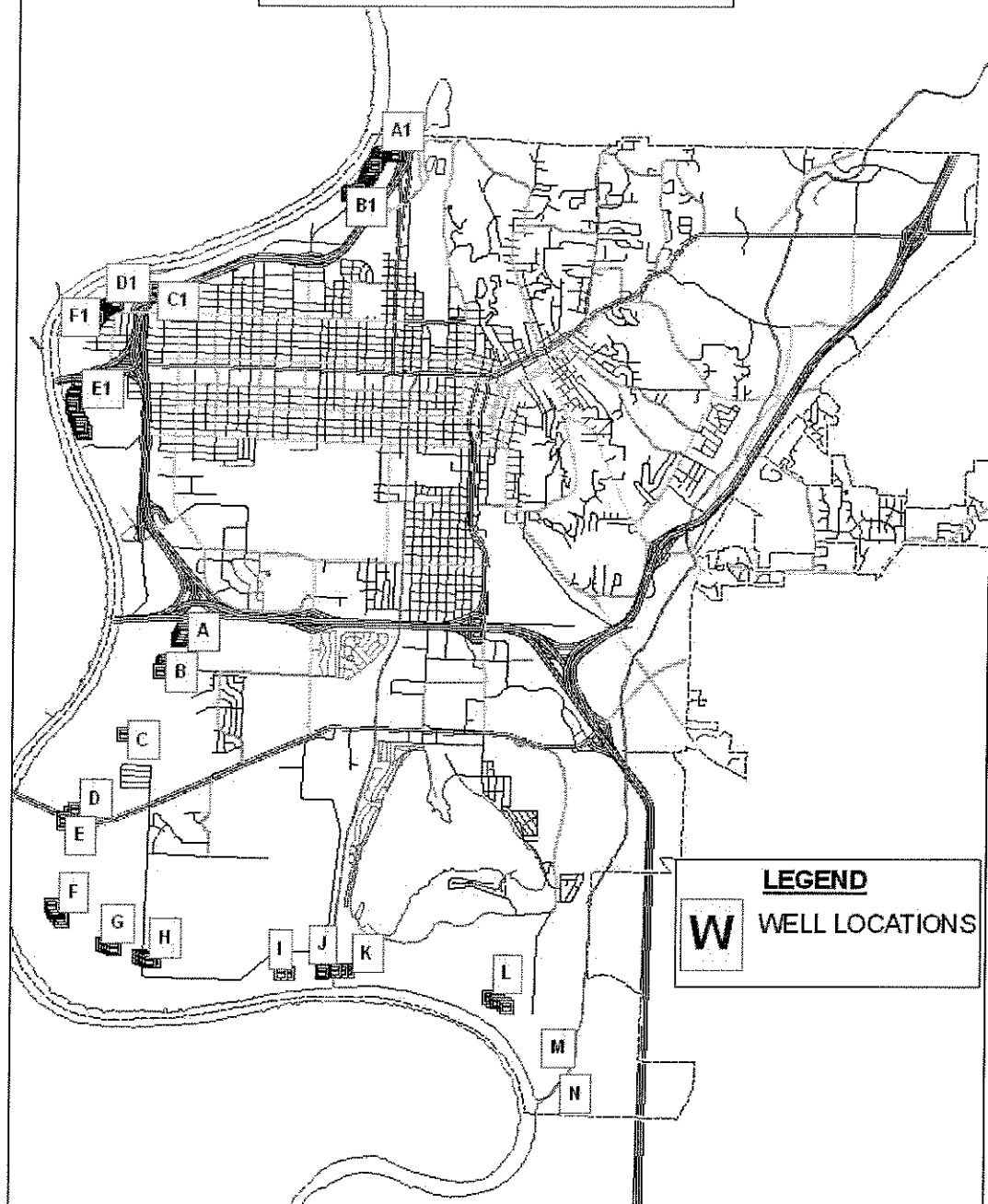
- Missouri River Levee system was completed in the late 1950's.
- Over 170 relief wells were installed with the original levee improvements. The wells are located in various locations all along the dryside of the levee system.
- The relief wells assist with levee stability during high water events, by "relieving" hydraulic ground water pressures between the wet and dry sides of the levee.
- Recent relief well inventory and assessments determined over 138, (80%), of total number of relief wells to be at or near the end of their service life.
- In 2006, the Corps of Engineers through the River Bend Project replaced 22 of the original 170 relief wells.
- Public Works has begun a levee relief well maintenance program to ensure operation of the new wells.
- The City's relief well replacement efforts will begin with this project. It is anticipated that 15-20 wells will be replaced under this project.
- As funds become available, more relief wells will be replaced annually.
- This project is FY10-04B in the CIP. The funding is comprised of the following sources:

FY08-04	\$250,000.00	G.O. Bonds
FY09-04B	\$150,000.00	G. O. Bonds
FY10-04B	\$ 50,000.00	Sales Tax
	\$ 50,000.00	Drainage Districts
	<u>\$ 26,475.94</u>	Community Disaster Grant Received
Total	\$526,475.94	

### RECOMMENDATION

Approval of this resolution.

# FY10-04B LEVEE RELIEF WELLS



**RESOLUTION**  
**NO 09-233**

**RESOLUTION APPROVING THE PLANS, SPECIFICATION,  
FORM OF CONTRACT AND COST ESTIMATE FOR THE  
STORMWATER RELIEF WELLS  
FY10-04B**

WHEREAS,           the plans, specification, form of contract and cost estimate  
                          are on file in the office of the City Clerk of the City of  
                          Council Bluffs, Iowa for the Stormwater Relief Wells  
                          and

WHEREAS,           A Notice of Public Hearing was published as required  
                          by law, and a public hearing was held on July 27, 2009.

NOW, THEREFORE, BE IT RESOLVED  
BY THE CITY COUNCIL  
OF THE  
CITY OF COUNCIL BLUFFS, IOWA

That the plans, specifications, form of contract and cost estimate are hereby approved for the Stormwater Relief Wells and the City Clerk is hereby authorized to advertise for bids for said project.

ADOPTED  
AND  
APPROVED                      August 10, 2009

\_\_\_\_\_  
Thomas P. Hanafan, Mayor

ATTEST:

\_\_\_\_\_  
Marcia L. Worden, Acting City Clerk

## COUNCIL COMMUNICATION

Department: Public Works  
Case/Project No.: \_\_\_\_\_  
Applicant: Dan Woellhof, CBO

Ordinance No. \_\_\_\_\_  
Resolution No. 09-234

First Reading August 10, 2009

### SUBJECT/TITLE

After the Public Hearing council consideration of a resolution approving the Assessment of Costs for Securing Certain Buildings within the City.

### BACKGROUND/DISCUSSION

- The Building Division found certain vacant and unsecured buildings that were not being maintained by the owners. These buildings were not in compliance with Chapter 8.54 of the Municipal Code. The Building Division abated the nuisance according to code by contracting the buildings to be secured.
- The Contractor was paid from the Capital Project Fund.
- The procedure of assessment of the abated nuisance, is in accordance to the *Uniform Code for the Abatement of Dangerous Buildings* as adopted and amended. The procedure is that when the City Clerk receives an Account of Expense Report, the City Council is to set a date for public hearing assessing the costs. Also, all objections or protests must be filed with the City Clerk **PRIOR** to the public hearing.
- These properties were declared a nuisance that had certain building which were secured as follows:

Property Address	Addition	Blk	Lot	Parcel #	Charged	%10 Admin Fee	Total	Done
1418 28 <sup>th</sup> Avenue	Railroad Addition			7444 02 458 003	\$331.00	\$33.10	\$364.10	05/15/09
3563 5 <sup>th</sup> Avenue	Brown Subdivision	28	15	7544 33 254 001	\$199.00	\$19.90	\$218.90	03/29/09
357 Scott Street	Mill Addition	1	1	7544 25 338 028	\$343.00	\$34.30	\$377.20	02/10/09
1421 2 <sup>nd</sup> Avenue	Beers Subdivision	32	6	7544 35 211 002	\$470.00	\$47.00	\$517.00	01/03/09
1421 2 <sup>nd</sup> Avenue	Beers Subdivision	32	6	7544 35 211 002	\$291.40	\$29.14	\$320.54	05/18/09

### RECOMMENDATION

Approval of this resolution.

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Greg Reeder, Public Works Director

**RESOLUTION**  
**NO 09-234**

**RESOLUTION APPROVING THE ASSESSING OF COSTS  
FOR SECURING CERTAIN BUILDINGS WITHIN THE  
CITY OF COUNCIL BLUFFS, IOWA**

- WHEREAS: the Building Division of the Public Works Department of the City of Council Bluffs, Iowa, has contracted for the securing of certain buildings; and
- WHEREAS: the City now desires to assess the costs for this project back to the properties that had buildings that were secured; and
- WHEREAS: a Notice of Public Hearing was published as required by law, and a public hearing was held on August 10, 2009.
- WHEREAS: the city clerk received the Building Official's Account of Expense Report date June, 2009, regarding securing expense at 1418 28<sup>th</sup> Avenue, 3563 5<sup>th</sup> Avenue, 357 Scott Street, and 1412 2<sup>nd</sup> Avenue

NOW, THEREFORE, BE IT RESOLVED  
BY THE CITY COUNCIL  
OF THE  
CITY OF COUNCIL BLUFFS, IOWA

That the City Clerk hereby approve for the assessment of the costs for certain projects back to the properties that had buildings that were secured.

ADOPTED  
AND  
APPROVED

August 10, 2009

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Thomas P. Hanafan, Mayor

ATTEST:

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Marcia L. Worden, Acting City Clerk

### Council Communication

Department: Community Development Case #AN-09-001 Applicant: Council Bluffs Airport Authority 16801 McCandless Lane, #2 Council Bluffs, IA 51503	Resolution No. <u>09-235</u>	City Council Meeting: August 10, 2009  Planning Commission Meeting: July 14, 2009
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#### Subject/Title

Voluntary annexation with owners in opposition of approximately 1,058 acres located in part of Sections 26, 27, 33, 34 and 35, Township 75 North, Range 43 West of the 5<sup>th</sup> P. M. (Garner Township) and a part of Section 2, Township 74 North, Range 43 West of the 5<sup>th</sup> P. M. (Lewis Township), all in Pottawattamie County, Iowa. The area proposed for annexation extends east from the current City limits between Steven Road and Cedar Lane through the Airport Authority land lying east of Eastern Hills Drive right-of-way.

#### Background/Discussion

The Council Bluffs Airport Authority, by Resolution No. 909 dated June 18, 2008, requested voluntary annexation of approximately 600 acres shown as #14 on Exhibit 'A'. The resolution cited increased interest by both commercial and individual aircraft owners to expand airport operations. Since sanitary sewer service can only be extended within the City boundaries, the Airport Authority requested voluntary annexation. The subject parcel is not contiguous with the City limits and annexation cannot create an island of land surrounded by the City. For that reason, the Community Development Department enlarged the area for consideration and contacted landowners to determine their interest in annexation as shown on Exhibit 'A', the map showing the parcels and the relationship of the proposed annexation to the current City boundary. The legal description is Exhibit 'B'. Exhibit 'C' shows ownership and parcel land area as numbered in Exhibit 'A'.

The airport is zoned A-1/Open Space and Conservation and conforms to the County's Zoning Ordinance. Abutting County land east and west of the airport is zoned primarily A-4/Loess Hills with R-2/Urban Transitional District both north and west of McPherson Avenue, south of the airport and on the west adjacent to State Orchard Road. Abutting land within the City is zoned R-1/Single Family Residential except for the northeast corner of the Hills of Cedar Creek, which is zoned R-3/Low Density Multi-Family Residential. The area proposed for annexation is primarily vacant and in agricultural use. In addition to the Airport, there is a commercial operation and seven residences on six parcels within the proposed annexation area.

§15.02.050 of the Zoning Ordinance was amended in October 2007 to make clear the status of existing zoning upon annexation. It states 'Annexed land shall retain the same zoning classification after annexation that it had prior to annexation. Those regulations shall remain in place until the City completes the legislative action to rezone the property.' The City will initiate rezoning the airport to an appropriate City classification after the annexation is approved.

Chapter 368 of the Iowa Code sets out the procedure for municipal annexation of territory. §368.7 states that 'Territory...comprising not more than twenty percent of the land area may be included in the application without the consent of the owner to avoid creating an island or to create more uniform boundaries.' Legislative action during the 2003 session, prohibited inclusion of 'public land' in making the calculation of 20% of the land area with owners in opposition. Right-of-way was excluded from the calculations. Chapter 368 also sets out the required notifications needed before City Council action on the annexation. That action is scheduled for the August 10, 2009 City Council meeting.



- a. Consultation with the Pottawattamie County Board of Supervisors and Trustees of Garner and Lewis Townships was held June 29, 2009. The Pottawattamie County Board of Supervisors designated Maggie Popp-Reyes, Assistant County Attorney and Kay Mocha, Director, Planning and Development to attend the consultation. Both were present. Two trustees from Garner Township, Randy Lemmon and Ron Stueve were also present. A written recommendation for modification can be made no later than seven days after the consultation. No recommendation was received.
- b. At least 14 business days before the August 10 2009 public hearing, notice will be published in the Nonpareil and mailed to the Chair of the County Board, property owners who were not a party to the original annexation application, all effected utilities and each adjoining property owner not already inside the City. All owners within the area proposed for annexation and all adjoining outside of the City were notified of the Planning Commission hearing and the City Council action were mailed notices on June 30, 2009. Additional notifications will be mailed on July 20, 2009 and published on July 21, 2009. Owners of two parcels outside of the City, not included in the annexation, called for information.
- c. Voluntary annexation with owners in opposition is not complete without approval of four-fifths of the members of the City Development Board. This group is a state board appointed by the Governor to consider annexation proposals. Upon notification by the City of its action on the voluntary annexation, the City Development Board will schedule their public hearing. Generally, the Board will hold the public hearing in the effected community. They meet monthly and it may take several months to arrange. The Board's findings and decision are then filed and if approved, the Secretary of State will acknowledge the annexation as final.

MidAmerican Energy has capacity to serve the existing uses from primary facilities along State Orchard Road, Cedar Lane and extending north to serve the airport and beyond. Extension of facilities for new users will be considered with the request for service.

Water main extends along State Orchard Road then east on Cedar Lane into the Airport on an easement to McPherson Avenue and then north. Service is available to serve the entire area from the existing network. Main extension agreements will be need at some locations for future development. The IWCC training facility at the airport and the residential user at 16243 State Orchard Road have connected to water. The Airport Authority has applied for a main extension agreement for their operations. The engineering is complete and a contract has been completed. Water use outside of the City carries a surcharge amounting to 1.5 times the in-city rate. Upon annexation, current users will be transferred to the in-city rate.

The Council Bluffs Fire Department already serves the Airport. The station at Greenview & Valley View Drive will provide emergency services and fire protection. Tanker capacity has been increased to respond where water is not readily available. Protection through a professional fire department will result in a decreased cost in individual hazard insurance.

Trash pick-up and law enforcement will be extended upon approval of the annexation. Natural gas, telephone and Cox Communications will extend facilities as warranted with future development.

The Pottawattamie County Roads Department and Council Bluffs Public Works will develop service agreements to define snow removal and maintenance obligations. Where the county and city boundary meet, the City will annex to the center line of the existing right-of-way, specifically along Cedar Lane to Parcel #8, to the centerline of McPherson adjacent to Parcels #12B and #12C and then to the centerline of Eastern Hills Drive right-of-way adjacent to a portion of the Airport and Parcel #13 as shown on Exhibit 'A'. The County acquired the right-of way for the extension of Eastern Hills Drive to Highway 6.

The Public Works Department has assessed the roadway and sanitary sewer needs within the area proposed for annexation. 4,650 linear feet (lf) of Cedar Lane and 1,630 lf of State Orchard Road do not meet city standards. The minimum standards for these roads are two-lane, 31' wide PCC pavement with sub base, drains and curb inlets in 66' wide right-of-way. A culvert under Cedar Lane, while in good condition, is not long enough to accommodate a 31' wide street. A wooden, single span bridge on Cedar Lane is too narrow and not structurally sound to handle additional traffic. Total cost without additional right-of-way is estimated at \$1,514,000. Roadway improvements are required concurrent with development.

Sanitary sewer has been installed in easements east of State Orchard Road into the Hills of Cedar Creek south of Cedar Lane. Plans have been developed to continue the main north for 6,000 lf with a 3,500 lf lateral east to the airport. Total cost for both is estimated at \$1,990,000. Public Works identified \$250,000 in the Capital Improvement Program for Phase 1 of the sewer extension project, which is funded by sewer impact fees. Until development warrants construction, the sewer will not be extended.

The Auditor's Office looked at the impact on property taxes before and after annexation. For property assessed for agricultural use (Taxing District 3) and receiving Homestead Credit, Agland Credit and/or Family Farm Credit, property taxes would have less if the land were in the City. The Assessor's Office may review the assessments for residential property in Taxing District 2, but a property tax increase can be expected for the Hurd, Selby, Cooper and Christiansen residences. All will derive some decreased premium on homeowner's hazard insurance due to response by the Council Bluffs Fire Department.

Exhibit 'C' lists ownership of the parcels as numbered on Exhibit 'A', response to the Department's inquiry and the land area with right-of-way noted. The total land area, excluding right-of-way, is 1009.33 acres with owners of 842.41 acres agreeing to voluntary annexation and owners of 166.92 acres in opposition or 16.5% opposed.

#### **Recommendation**

The Community Development Department recommends voluntary annexation with owners in opposition of approximately 1,058 acres located in part of Sections 26, 27, 33, 34 and 35, Township 75 North, Range 43 West of the 5<sup>th</sup> P. M. (Garner Township) and a part of Section 2, Township 74 North, Range 43 West of the 5<sup>th</sup> P. M. (Lewis Township), all in Pottawattamie County, Iowa, as shown in Exhibit 'A' with the complete legal description in Exhibit 'B'. The Community Development Department finds the following:

- A. This annexation is consistent with the voluntary annexation procedure set forth in the Chapter 368 of the Iowa Code.
- B. The area proposed for annexation adjoins the City's corporate boundaries.
- C. The proposed annexation will not create an island of County land surrounded by the City or restrict potential future annexation in any direction. This action by the City minimizes the risk of creating an island hindering future growth.
- D. The proposed annexation creates a uniform boundary.
- E. City services will not be adversely affected if the land is annexed. Utilities, including sanitary sewer, can be extended with sufficient capacity to serve the additional territory when development occurs to justify the expense.
- F. The proposed annexation is consistent with the *Two-mile Limit Area Policy Agreement* and the goals and intent of the 1994 Comprehensive Plan, which lists single and multi-family residential as the primary land use with neighborhood commercial as a secondary land use within the extraterritorial jurisdiction of the City.
- G. The proposed annexation is in the best interest of the City.

**Public Hearing**

Gayle Malmquist, Development Services Coordinator, appeared before the Planning Commission in favor of the request. Roland Lynch, 216 Bluff Street, concurred with the annexation and suggested selling the airport to a private investment group to put the land back on the tax rolls and aid the City's budget shortfall.

The following appeared in opposition: Pat & Bernard Nekuda, 1391 State Orchard Road - City residents; Patti McAtee & June Crouse, 22465 Three Bridge Road, County abutters – not in annexation area; Aaron Cooper, 21555 Cedar Lane, and Max Hurd, 16243 State Orchard Road – nonconsenting owners.

**Planning Commission Recommendation**

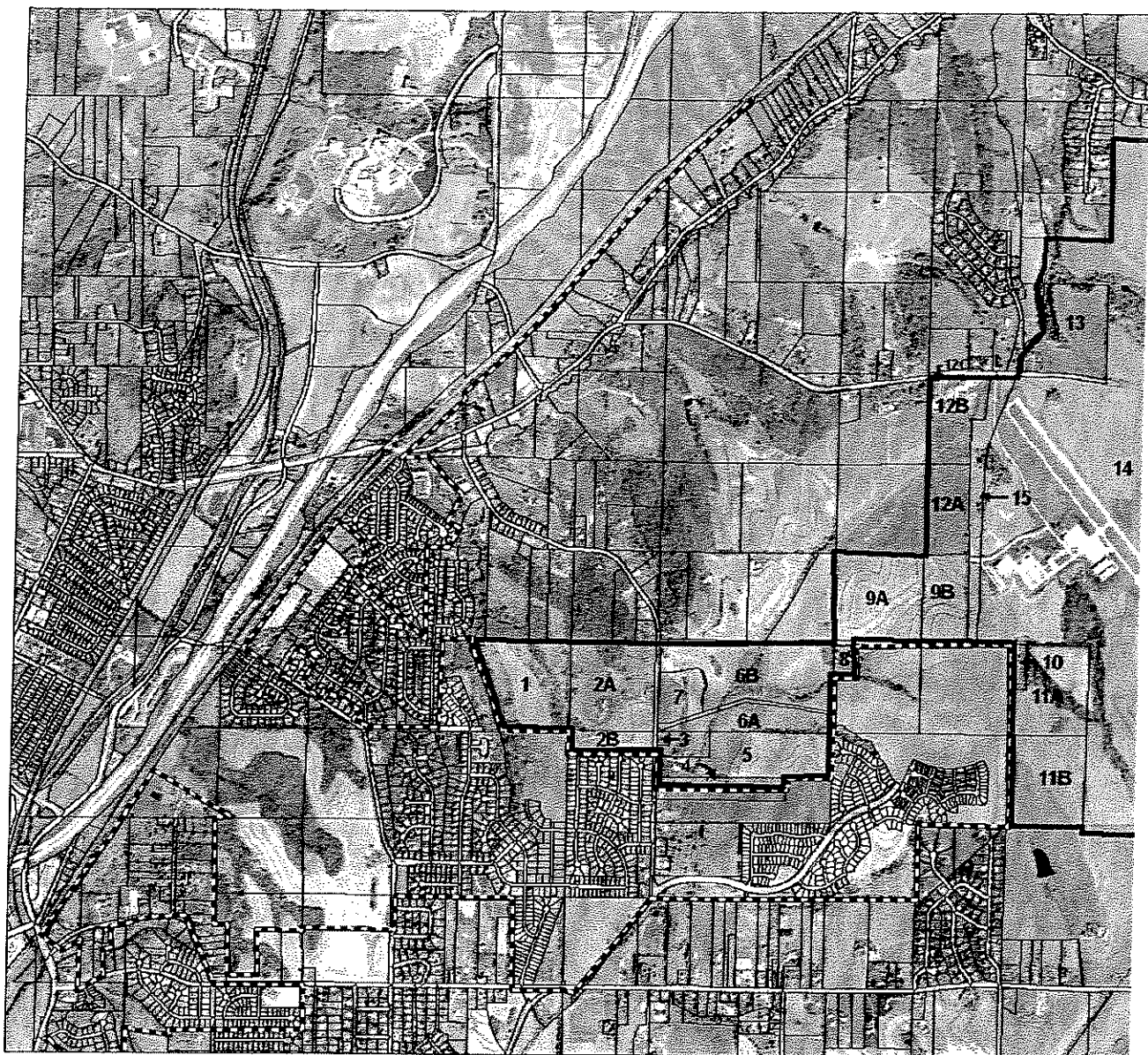
The Planning Commission concurs with the findings of the Community Development Department and recommends approval of the voluntary annexation as presented in Exhibits A & B.

VOTE: AYE 7 NAY 2 ABSTAIN 0 ABSENT 2 Motion: Carried

Applicant: Council Bluffs Airport Authority

Attachments: Exhibits A (Map), B (Legal) and C (spreadsheet), correspondence from Sam Irwin.

Prepared by: Gayle M. Malmquist, Development Services Coordinator



(Airport Annexation Study Area - Rev. 6-9-09)

## CITY OF COUNCIL BLUFFS – 2009 ANNEXATION DESCRIPTION

A PART OF SECTIONS 26, 27, 33, 34, AND 35, TOWNSHIP 75 NORTH, RANGE 43 WEST OF THE 5<sup>TH</sup> P.M. (GARNER TWP.), AND A PART OF SECTION 2, TOWNSHIP 74 NORTH, RANGE 43 WEST OF THE 5<sup>TH</sup> P.M. (LEWIS TWP.), ALL IN POTTAWATTAMIE COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTH LINE OF THE NE1/4 OF THE SW1/4 OF SAID SECTION 33, SAID POINT BEING 150.72 FEET WEST OF THE CENTER OF SAID SECTION; THENCE EAST ALONG SAID NORTH LINE, 150.72 FEET TO THE CENTER OF SAID SECTION 33; THENCE EAST ALONG THE NORTH LINE OF THE SE1/4 OF SAID SECTION 33 TO THE NORTHEAST CORNER OF SAID SE1/4, SAID POINT ALSO BEING THE NORTHWEST CORNER OF THE SW1/4 OF SAID SECTION 34; THENCE EAST ALONG THE NORTH LINE OF SAID SW1/4 TO THE CENTER OF SAID SECTION 34; THENCE NORTH ALONG THE WEST LINE OF THE S1/2 OF THE NE1/4 OF SAID SECTION 34 TO THE NORTHWEST CORNER OF SAID S1/2 OF THE NE1/4; THENCE EAST ALONG THE NORTH LINE OF SAID S1/2 OF THE NE1/4 TO THE SOUTHWEST CORNER OF THE W1/2 OF THE NE1/4 OF THE NE1/4 OF SAID SECTION 34; THENCE NORTH ALONG THE WEST LINE OF SAID W1/2 OF THE NE1/4 OF THE NE1/4 AND ALONG THE WEST LINE OF THE W1/2 OF THE SE1/4 OF THE SE1/4 OF SAID SECTION 27 TO A POINT ON THE CENTERLINE OF MCPHERSON AVE (A.K.A. FORMER U.S. HWY 6); THENCE EASTERLY ALONG SAID CENTERLINE OF MCPHERSON AVE TO A POINT ON THE CENTERLINE OF EASTERN HILLS DRIVE (A.K.A. 225<sup>TH</sup> ST); THENCE NORTHERLY ALONG SAID CENTERLINE OF EASTERN HILLS DRIVE TO A POINT ON THE NORTH LINE OF PARCEL "B" OF THE SW1/4 OF THE NW1/4 OF SAID SECTION 26; THENCE EAST ALONG SAID NORTH LINE OF PARCEL "B" TO A POINT ON THE WEST LINE OF THE SE1/4 OF THE NW1/4 OF SAID SECTION 26;

THENCE ALONG THE FOLLOWING COURSES AND DISTANCES WHOSE BASIS OF BEARING IS THE WEST LINE OF THE NW1/4 OF SAID SECTION 28 HAVING AN ASSUMED BEARING OF NORTH 0° 28' 02" EAST: THENCE N 0° 21' 13"E, ALONG THE WEST LINE OF THE SE1/4, NW1/4 OF SECTION 26-75-43, 659.85 FEET TO THE NORTHWEST CORNER OF SAID SE1/4, NW1/4; THENCE N 0° 26' 24"E, ALONG THE WEST LINE OF THE NE1/4, NW1/4 OF SECTION 26-75-43, 785.50 FEET; THENCE S 88° 31' 56"E, 1305.40 FEET TO A POINT ON THE WEST LINE OF THE NW1/4, NE1/4 OF SECTION 26-75-43; THENCE N 0° 26' 17"E, ALONG THE WEST LINE OF SAID NW1/4, NE1/4, 425.59 FEET; THENCE S 58° 21' 15"E, 419.21 FEET; THENCE S 0° 26' 17"W, 320.00 FEET; THENCE S 89° 12' 30"E, 290.00 FEET; THENCE S 0° 05' 24"E, 659.30 FEET TO A POINT OF THE NORTH LINE OF THE SW1/4, NE1/4 OF SECTION 26-75-43; THENCE S 0° 15' 09"W, 1317.34 FEET TO A POINT ON THE SOUTH LINE OF SAID SW1/4, NE1/4; THENCE N 89° 21' 33"W, ALONG THE SOUTH LINE OF SAID SW1/4, NE1/4, 163.01 FEET; THENCE S 1° 28' 04"W, 1712.48 FEET TO A POINT ON THE CENTER LINE OF MCPHERSON AVENUE; THENCE S 1° 28' 14"W, 927.64 FEET TO A POINT ON THE NORTH LINE OF THE NE1/4 OF SECTION 35-75-43; THENCE S 1° 28' 14"W, 1770.61 FEET; THENCE S 40° 24' 45"E, 10.29 FEET THENCE S 0° 19' 04"W, 281.77 FEET; THENCE S 39° 17' 19"E, 739.10 FEET TO A POINT OF THE NORTH LINE OF THE SE1/4 OF

SECTION 35-75-43; THENCE S 89° 35' 00"E, ALONG THE NORTH LINE OF SAID SE1/4, 457.31 FEET; THENCE S 50° 47' 51"W, 1148.02 FEET; THENCE N 89° 42' 23"W, 151.22 FEET; THENCE S 1° 28' 04"W, 582.07 FEET TO A POINT ON THE NORTH LINE OF THE SW1/4, SE1/4 OF SECTION 35-75-43; THENCE S 1° 28' 04"W, 1314.79 FEET TO A POINT ON THE NORTH LINE OF THE NE1/4 OF SAID SECTION 2; THENCE CONTINUING S 1° 28' 04"W, 120.59 FEET; THENCE N 88° 31' 56"W, 1750.00 FEET; THENCE N 1° 28' 04"E, 79.75 FEET TO A POINT ON THE SOUTH LINE OF THE SW1/4, SW1/4 OF SAID SECTION 35;

THENCE WEST ALONG SAID SOUTH LINE OF THE SW1/4 OF THE SW1/4 OF SECTION 35, TO THE SOUTHWEST CORNER OF SAID SECTION 35; THENCE NORTH ALONG THE WEST LINE OF THE SW1/4 OF SAID SECTION 35 TO THE NORTHWEST CORNER OF SAID SW1/4, SAID POINT ALSO BEING THE NORTHEAST CORNER OF THE SE1/4 OF SAID SECTION 34; THENCE WEST ALONG THE NORTH LINE OF SAID SE1/4 OF SECTION 34 TO A POINT BEING 341.5 FEET EAST OF THE NORTHWEST CORNER OF SAID SE1/4; THENCE SOUTH 503 FEET; THENCE WEST 341.5 FEET TO A POINT ON THE EAST LINE OF SAID SE1/4 OF SECTION 34; THENCE SOUTH ALONG SAID EAST LINE TO THE NORTHEAST CORNER OF THE S1/2 OF THE S1/2 OF THE SW1/4 OF SAID SECTION 34; THENCE WEST ALONG THE NORTH LINE OF SAID S1/2 OF THE S1/2 OF THE NW1/4 TO A POINT BEING 1958.99 FEET EAST OF THE NORTHWEST CORNER THEREOF; THENCE SOUTH 165 FEET; THENCE WEST ALONG THE NORTH LINE OF THE SOUTH 165 FEET OF THE NORTH 330 FEET OF THE WEST 1958.99 FEET OF SAID S1/2 OF THE S1/2 OF THE SW1/4 TO A POINT ON THE EAST LINE OF THE SE1/4 OF SAID SECTION 33; THENCE NORTH ALONG SAID EAST LINE TO THE NORTHWEST CORNER OF THE SOUTH 30 ACRES OF THE E1/2 OF SAID SE1/4; THENCE WEST ALONG THE NORTH LINE OF THE SOUTH 30 ACRES OF THE E1/2 OF SAID SE1/4, TO A POINT ON THE WEST LINE OF SAID E1/2 OF THE SE1/4 OF SECTION 33; THENCE NORTH ALONG SAID WEST LINE TO THE SOUTHEAST CORNER OF THE NW1/4 OF THE SE1/4 OF SAID SECTION 33;

THENCE ALONG THE FOLLOWING COURSES AND DISTANCES WHOSE BASIS OF BEARING IS THE SOUTH LINE OF SAID NW1/4 OF THE SE1/4 OF SECTION 33, HAVING AN ASSUMED BEARING OF NORTH 89° 08' 28"W: THENCE NORTH 89° 08' 28" WEST ALONG SAID SOUTH LINE OF THE NW1/4 OF THE SE1/4, 1033.05 FEET; THENCE NORTH 23° 31' 27" WEST, 275.23 FEET; THENCE NORTH 12° 19' 30"W, 231.73 FEET; THENCE NORTH 18° 29' 14"W, 408.74 FEET; THENCE NORTH 20° 16' 12"W, 367.32 FEET; THENCE NORTH 1° 08' 36"E, 113.32 FEET TO THE POINT OF BEGINNING.

## CASE #AN-09-001

## EXHIBIT 'C'

<u>REF.</u> <u>NO.</u>	<u>NAME</u>	<u>MAILING</u> <u>ADDRESS</u>	<u>USE</u>	<u>ACRES</u>	<u>Owner agreed</u>	<u>Opposed</u>	<u>ROW</u>
1	BLH Investments, LLC- Barbara L. Hanson	32505 Hwy 92 Treyvor, IA 51575	Vacant	38.32	38.32		0.00
2A	Jon J. and Helen R. Bleicher	16310 State Orchard Road Council Bluffs, IA 51503	Res.	38.80		38.80	0.00
2B	Jon J. and Helen R. Bleicher	16310 State Orchard Road Council Bluffs, IA 51503	Vacant	9.00		9.00	0.00
3	Max E. Hurd Life Estate, et al	16243 State Orchard Road Council Bluffs, IA 51503	Res.	0.89		0.89	0.00
4	David M. and Sue E. Selby	16111 State Orchard Road Council Bluffs, IA 51503	Res.	7.30		7.30	0.00
5	Husz Farm Corporation	16185 State Orchard Road Council Bluffs, IA 51503	Res.	38.60		38.60	0.00
6A	HCC Investments, LLC	c/o Duggan Homes, Attn: Cara 660 North Lindenwood Drive Olathe, KS 66062	Vacant	17.45	17.36		0.09
6B	HCC Investments, LLC	c/o Duggan Homes, Attn: Cara 660 North Lindenwood Drive Olathe, KS 66062	Vacant	46.05	43.78		2.27
7	St. Patricks' Catholic Church	233 Harmony St. Council Bluffs, IA 51503	Vacant	12.02	11.42		0.60
	Right-of-way Steven Road	Pott County	row	3.82			3.82
8	Aaron D. and Tressa E. Cooper	21555 Cedar Lane Council Bluffs, IA 51503	Res.	3.70		3.70	0.25
9A	Coder Farm Co., Richard J. Coder	5621 No. 141 Cir. Omaha, NE 68164	Vacant	39.50	39.50		
9B	Coder Farm Co., Richard J. Coder	5621 No. 141 Cir. Omaha, NE 68164	Vacant	19.00	19.00		
10	Kenneth E. Christiansen, et al	22099 Cedar Lane Council Bluffs, IA 51503	Res.	4.00		4.00	
11A	Sandra Mae Adli Wood	2866 St. Hwy 2 Kellerton, IA 50133	Vacant	30.34		30.34	0.00
11B	Sandra Mae Adli Wood	2866 St. Hwy 2 Council Bluffs, IA 51503	Vacant	34.29		34.29	0.00
12A	ABC Electric, Inc.	21855 McPherson Council Bluffs, IA 51503	Vacant	20.00	20.00		0.00
12B	ABC Electric, Inc.	21855 McPherson Council Bluffs, IA 51503	Comm.	20.00	20.00		0.00
12C	ABC Electric, Inc.	21005 McPherson Council Bluffs, IA 51503	Vacant	1.50	1.50		0.00
13	James M. and Debra A. Duggan	1705 McPherson Ave. Council Bluffs, IA 51503	Vacant	31.50	31.50		0.00
14	Council Bluffs Airport Authority	16801 McCandless Lane #2 Council Bluffs, IA 51503	Airport	600.03	600.03		
15	Eastern Hills Drive	Pott County	row	19.00			19.00
	Eastern Hills Drive	Pott County	row	5.33			5.33
	Right-of way - northwest of Airport	Pott County	row	17.48			17.48
Total Acres				<u>1057.92</u>	<u>842.41</u>	<u>166.92</u>	<u>48.64</u>

## Gayle Malmquist

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**From:** Sfirwin@aol.com  
**Sent:** Sunday, July 05, 2009 9:54 AM  
**To:** Gayle Malmquist  
**Subject:** Case AN 09 001

Dear Mrs. Malmquist,

07/05/2009

Would you please attach this email to the letter I sent you dated 06/29/2009 to the Council Bluffs Planning Commissioner's, to the Staff, to the Council Bluffs City Council for their consideration and deliberations for the Council Bluffs Airport Authority's annexation application meetings, 07/14/2009 and 08/10/2009.

In my search for additional information and justification for this annexation, I have to date found little basis to agree. Actually, I have discovered there are more questions and concerns than before. Although, there could be options to solve some of the "orphan pockets" that have been created.

Some of the information and map's I have collected such as the "Council Bluffs and Pottawattamie County 28 E agreement" dated 11/23/1999 and 1/19/2000 labeled "Airport/Bent tree Urban Renewal Area". Also the "Two- Mile Limit area" policy agreement dated 10/24/2005 and 08/22/2005. And the Council Bluffs Zoning map dated 06/2008 could or should be changed , corrected or modified as I see it in the near future.

To begin I have some questions and comments specifically with the "Bent Tree 28 E Urban Renewal" being used inside the Two-Mile limit.

Exhibit "A" outlines the waterline extension into the Prairie Meadows subdivision, the Bent Tree subdivision, the Bent Tree Golf Course and the Council Bluffs Airport.

1. Within this agreement Exhibits B and C estimated the costs a \$942,634 and C at \$ 372,757 for a total of \$1,315,391. Does this include and Section 8 dollars?.

2.Was this the final costs and what is the current balance?.

3. How long will it take to pay back, since some of the property values have fluctuated? and some that are tax exempt.

4. Have all the abutting parcel holders connected yet? How many have not?.

5. Does the Golf Course get a reduced rate because of the volume?. And why the reduction in property value?

6.How is the Airport contributing to the reduction of the extension costs?.

7.Has the 20 year life of the Urban Renewal been extended ?.

8. How have we used the L.M.I. guidelines in this T.I.F. area when there are 1/2 million dollar homes?.

9. Water runs in two directions in this annexation if the sewer is run through shortest route, when or will the others get access?.

10. Page 3 top paragraph of the agreement. I am wondering if the direction mentioned should be North East in stead of North West?.

Would it be possible that this Urban Renewal area be extended to all those in the Two-mile area which would/could eventually offer the "Orphan Pockets" and others a opportunity to have these services run like it is being used in "Bent Tree Area agreement".

Next is the "Two-Mile area Policy Agreement"



1. The map in exhibit "B" could or should be improved where the lines of the various levels of service could be distinguished better.
2. This map will need to be updated when the new parcels are added.
3. The Exhibit "A" could use more descriptive services and regulations for those inside the Two Mile area.
4. There is question in my mind who if any gets notification of being inside the two-mile? and who informs those who will now be covered by these service levels?. and what impact it may have?.
5. Has there been any research into how many and what non conforming issues the city will inherit?. And a time table for correction.
6. Under the "City Service area policy" the term "Minimum Level of Services" it would be helpful if a time frame of when these services for the newly annexed parcels can be expected.
7. M.L.S. does not to me include all the "quality of life items most of the city has". And so far there has been no expression of what the City will provide in any specific time frame.
8. Under the "policy" second paragraph " Promote" to some is misleading and this term should or could be revisited, and could/should include any annexed area's not just new developments.
9. In my perspective in exhibit "B" page 1, 2nd. paragraph some of these policies have not come to fulfillment.
10. Other documents such as the Council Bluffs Zoning Map dated 06/2008 should or could be updated and improved by: including the Two-mile area and a overlay of service levels and future land uses. The airport lay out needs to be corrected and the extension of the limits will be needed. The streets and or numbers of the roads/streets in two-mile area should be updated and included in the Zoning Map. One other item that would be beneficial is a lay out map of all various incentive tools available including the two-mile limit.

I appreciate the opportunity to participate.

Sam Irwin  
321 Perrin Place  
Council Bluffs, Iowa 51503  
712 323 5345  
[sfirwin@aol.com](mailto:sfirwin@aol.com)

Make your summer sizzle with [fast and easy recipes](#) for the grill.

06/29/2009

**To: Roger Williams, Chair, and Pottawattamie County Board of Supervisors.**

**Subject: Voluntary Annexation Airport Area Case # an – 09- 001**

**CC: Gayle Malmquist Council Bluffs.**

**This Correspondence may seem a little early in the response process to this annexation. Although, the public has only 43 day's to react to something the Airport Authority and the City of Council Bluffs has had in the making for at least 8 months or more.**

**As I see it there has been little interaction for something as sensitive and all encompassing and should be given more forethought. With the current economic environment as it is this extension in theory may be a short term investment with long term implications.**

**For example, the major annexation of 1969 has yet to accomplish some of the expected goals or upgrading of the services which are being offered in this Case.**

**Now that annexation is back on the table this would be a good time for all the parties to set down and explore correcting some of the City Limits created in the past with the surrounding and abutting sub divisions which need to be extended services.**

**While were discussing economic development I wonder if this project is a priority over the vacant Richmond Gordman site at North 16 Th. street, the Mall of the Bluffs, other retail sites which are not completed/ full, or started, along with the various housing developments?.**

**Questions, Comments, and Talking points.**

- Will the sewer extension be placed under concrete?**
- Will the surrounding area have lines stubbed for them paid for by the Airport Authority?**
- Where will the lift stations and or pump stations might be placed?**
- Can the Airport authority be the private owner of the sewer?**
- Has there been discussion on a wet users and any expansion of the sewer treatment plant?**
- There have been some problems with developments with the soil in the hills. Like the subdivision behind the new fire station east, what will be done to prevent this?**
- Will there be additional Public works employees added for this expansion?**
- Will there be additional Health department employees added? For weeds, refuse, inspections etc,**
- Will the streets such as East Hills drive be upgraded to Cities needs, for example storm sewer, sidewalks, street lights etc,.? There are other roads that are substandard.**
- Will the roads/ streets be able to handle heavy truck traffic?**
- There are septic systems in this addition how many? / and compare with those inside the City still active?. Which were created by annexation in most cases.**
- Future land uses will be important especially when one looks at future taxes. Currently I think more than 75 percent will be non taxable uses or agri land.**

**--Has there been an impact study? Or a financial analysis?**

**--There is possibly land in forest reserves north west of the Airport how will this effect growth?**

**--Is there a time table for any non conforming issues?.**

**--Will there be any Public Safety employee's added?.**

**--The Airport needs a though security analysis and upgrade...**

**--How will the extension effect the agreements and accountability of the various fire departments?.**

**--No new full service Parks have been developed east of Valley View for the voluntarily annexations in my mind. What specific plans and time frame for these residents?.**

**--For the past 25 years or so the Airport has been in the red. How much has the city supplemented this land?. The Federal government has also spent xxx millions of dollars on this cargo terminal.**

**--The current budget is directed to raise over a ½ million dollars to support this cost center a year.**

**--What are the plans to get it in the black? And off the city budget?.**

**--Is there a cap like the general fund for this enterprise,. Such as 27 cents like the emergency fund or is it unlimited?.**

**Potential modifications to the response to the City should you agree with the request:**

**Is it possible to Sell or Privatize the Airport? To make it taxable.**

**Broaden this scope of this plan to clean up the city limit lines for the future. And negotiate with the subdivisions.**

**Ask the Council Bluffs School District to consider moving there lines to concur with the new city lines.**

**Make the Airport Authority elected positions.**

**Put this matter before the public in a ballot proposition.**

**This to me is not a simplistic Yes or No. And is not a matter of what is in for me scenario. This needs a cooperative venture, inclusive not isolation.**

**Thank you for your Time.**

**Sam Irwin  
321 Perrin Place  
Council Bluffs, Iowa 51503  
712 323 5345  
[sfirwin@aol.com](mailto:sfirwin@aol.com)**

RESOLUTION NO. 09-235

A RESOLUTION approving voluntary annexation with owners in opposition of approximately 1,058 acres extending east from the current city limits between Steven Road and Cedar Lane through the Airport Authority land lying east of Eastern Hills Drive right-of-way.

WHEREAS, the Council Bluffs Airport Authority, by Resolution No. 909, dated June 18, 2008, requested voluntary annexation of approximately 600 acres shown as #14 on Exhibit "A"; and

WHEREAS, due to the fact that the subject parcel is not contiguous with the city limits and annexation cannot create an island of land surrounded by the city, the Community Development Department enlarged the area for consideration and contacted landowners to determine interest in annexation; and

WHEREAS, the airport is zoned A-1/Open Space and Conservation and conforms to the County's Zoning Ordinance. Abutting County land east and west of the airport is zoned primarily A-4/Loess Hills with R-2/Urban Transitional District both north and west of McPherson Avenue, south of the airport and on the west adjacent to State Orchard Road. Abutting land within the city is zoned R-1/Single Family Residential, except for the northeast corner of the Hills of Cedar Creek, which is zoned R-3/Low Density Multi-Family Residential. The City will initiate rezoning the airport to an appropriate city classification after the annexation is approved; and

WHEREAS, the Community Development Department recommends voluntary annexation with owners in opposition of approximately 1,058 acres located in part of Sections 26, 27, 33, 34 and 35, Township 75 North, Range 43 West of the 5<sup>th</sup> P.M. (Garner Township) and a part of Section 2, Township 74 North, Range 43 West of the 5<sup>th</sup> P.M. (Lewis Township), all in Pottawattamie County, Iowa, as shown in Exhibit "A", with the complete legal description in Exhibit "B"; and

WHEREAS, the Community Development Department finds the following:

- A. This annexation is consistent with the voluntary annexation procedure set forth in Chapter 368 of the Iowa Code.
- B. The area proposed for annexation adjoins the City's corporate boundaries.
- C. The proposed annexation will not create an island of County land surrounded by the City or restrict potential future annexation in any direction. This action by the City minimizes the risk of creating an island hindering future growth.
- D. The proposed annexation creates a uniform boundary.

- E. City services will not be adversely affected if the land is annexed. Utilities, including sanitary sewer, can be extended with sufficient capacity to serve the additional territory when development occurs to justify the expense.
- F. The proposed annexation is consistent with the Two-mile Limit Area Policy Agreement and the goals and intent of the 1994 Comprehensive Plan, which lists single and multi-family residential as the primary land use with neighborhood commercial as a secondary land use within the extraterritorial jurisdiction of the City.
- G. The proposed annexation is in the best interest of the City; and

WHEREAS, an annexation including territory comprising not more than twenty percent of the land area without consent of the property owners is not complete without approval by four-fifths of the members of the City Development Board after a hearing for all affected property owners and the County.

NOW, THEREFORE, BE IT RESOLVED  
BY THE CITY COUNCIL  
OF THE  
CITY OF COUNCIL BLUFFS, IOWA:

This City Council hereby approves the voluntary annexation with owners in opposition of approximately 1,058 acres, as shown in Exhibit "A", and legally described in Exhibit "B"; and

BE IT FURTHER RESOLVED

That the City Clerk shall send to the City Development Board a copy of the resolution, map, legal description, proof of publication and any other related documents as required by the Board's Administrative Rules for their review and consideration and to set a hearing for all affected property owners and the County.

ADOPTED  
AND  
APPROVED

\_\_\_\_\_  
THOMAS P. HANAFAN Mayor

Attest: \_\_\_\_\_  
MARCIA L. WORDEN Acting City Clerk

## Council Communication

Department: Community Development  Case No.: URN-09-001  Applicant: Community Development Department	Ordinance <u>6037</u>	City Council: 7/27/09 Planning Commission: 7/14/09  First Reading: 7/27/09 Second Reading: 8/10/09 Third Reading: N/A						
<b>Subject/Title</b>								
Amendment #2 to the Playland Park Urban Renewal Plan								
<b>Location</b>								
North and south of the I-480 and 41 <sup>st</sup> Street interchange								
<b>Background/Discussion</b>								
<p><u>Background</u> In June of 2003, City Council adopted the Playland Park Urban Renewal Plan in order to accommodate a high rise condominium project, which never materialized. In June of 2005, the urban renewal plan was amended to add additional land and several new projects, including riverfront development, the development of portions of Playland Park and the redevelopment of the Frito Lay and Dodge Park clubhouse areas. The urban renewal plan is again in need of amending, to add new areas along the Missouri River, update proposed project area activities, including costs and public debt and to modify the effective term of the plan.</p> <p><u>Discussion</u> On June 22, 2009, the City Council passed a resolution of necessity, which directed staff to initiate the process of amending the Playland Park Urban Renewal Plan and Area. This resolution established the following actions and timeframes:</p> <table style="margin-left: auto; margin-right: auto;"><tr><td style="padding-right: 20px;">July 2, 2009</td><td>Consultation hearing with affected taxing jurisdictions</td></tr><tr><td>July 14, 2009</td><td>City Planning Commission hearing and review</td></tr><tr><td>July 27, 2009</td><td>City Council public hearing</td></tr></table> <p>The consultation hearing was held on July 2, 2009 and no individuals or groups appeared at the hearing. Additionally, no written correspondence has been received by the Community Development Department either in support or against the proposed amendment. One resident of the area called for additional information.</p> <p>Iowa statutes require the City Planning Commission to review the amended plan for conformity to the comprehensive plan and to forward a recommendation to City Council prior to public hearing. An amendment to the urban renewal plan conforming to the requirements of Chapter 403 of the Iowa Code has been prepared. This amended plan also conforms to the general development plan of the City as a whole and is attached for your review.</p>			July 2, 2009	Consultation hearing with affected taxing jurisdictions	July 14, 2009	City Planning Commission hearing and review	July 27, 2009	City Council public hearing
July 2, 2009	Consultation hearing with affected taxing jurisdictions							
July 14, 2009	City Planning Commission hearing and review							
July 27, 2009	City Council public hearing							
<b>Staff Recommendation</b>								
The Community Development Department recommends approval of Amendment #2 to the Playland Park Urban Renewal Plan and Area.								
<b>Public Hearing</b>								
Gayle Malmquist appeared before the Planning Commission in favor of the request. No one appeared in opposition.								
<b>Planning Commission Recommendation</b>								
The Planning Commission recommends approval of Amendment #2 to the Playland Park Urban Renewal Plan and Area, as presented.								
VOTE: AYE 9    NAY 0    ABSTAIN 0    ABSENT 2    Motion: Carried								
<b>Attachments</b>								
Amendment #2 to the Playland Park Urban Renewal Plan and Area								
Submitted by: Brenda Carrico, Program Coordinator, Community Development Department								
Approved by: Donald D. Gross, Director, Community Development Department								



ORDINANCE NO. 6037

AN ORDINANCE AMENDING ORDINANCE NOS. 5766 AND 5859, PROVIDING THAT GENERAL PROPERTY TAXES LEVIED AND COLLECTED EACH YEAR ON ALL PROPERTY LOCATED WITHIN THE AMENDED PLAYLAND PARK URBAN RENEWAL PROJECT AREA, IN THE CITY OF COUNCIL BLUFFS, COUNTY OF POTTAWATTAMIE, STATE OF IOWA, BY AND FOR THE BENEFIT OF THE STATE OF IOWA, CITY OF COUNCIL BLUFFS, COUNTY OF POTTAWATTAMIE, COUNCIL BLUFFS COMMUNITY SCHOOL DISTRICT, AND OTHER TAXING DISTRICTS, BE PAID TO A SPECIAL FUND FOR PAYMENT OF PRINCIPAL AND INTEREST ON LOANS, MONIES ADVANCED TO AND INDEBTEDNESS, INCLUDING BONDS ISSUED OR TO BE ISSUED, INCURRED BY THE CITY IN CONNECTION WITH THE AMENDED PLAYLAND PARK URBAN RENEWAL REDEVELOPMENT PROJECT

WHEREAS, the City Council of the City of Council Bluffs, State of Iowa, has heretofore, in Ordinance Nos. 5766 and 4859, provided for the division of taxes within the Playland Park Urban Renewal Project Area, pursuant to Section 403.19 of the Code of Iowa; and

WHEREAS, additional territory now has been added to the Playland Park Urban Renewal Project Area; and

WHEREAS, indebtedness has been incurred by the City, and additional indebtedness is anticipated to be incurred in the future, to finance urban renewal project activities within the amended Playland Park Urban Renewal Project Area, and the continuing needs of redevelopment within the amended Playland Park Urban Renewal Project Area are such as to require the continued application of the incremental tax resources of the amended Playland Park Urban Renewal Project Area; and

WHEREAS, the following enactment is necessary to accomplish the objectives described in the premises.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COUNCIL BLUFFS, STATE OF IOWA, THAT:

Ordinance Numbers 5766 and 5859 are hereby amended to read as follows:

Section 1: For purposes of this Ordinance, the following terms shall have the following meanings:

(a) Original Project Area shall mean that portion the City of Council Bluffs, State of Iowa, described in the Urban Renewal Plan for the Playland Park Urban Renewal Area approved by Resolution No. 03-138 on June 23, 2003, which Original Project Area includes the lots and parcels located within the area legally described as follows:

Lots 174 through 185 in Twin City Gardens an addition to Council Bluffs, Iowa, part of Government Lot 3 and accretions thereto in the SW  $\frac{1}{4}$  SW  $\frac{1}{4}$  of Section 28 and in the SE  $\frac{1}{4}$  SE  $\frac{1}{4}$  of Section 29 and part of Government Lot 1 and accretions thereto in the NE  $\frac{1}{4}$  NE  $\frac{1}{4}$  of Section 32 and in the NW  $\frac{1}{4}$  NW  $\frac{1}{4}$  and, NE  $\frac{1}{4}$  NW  $\frac{1}{4}$  of Section 33, all in Township 75 North Range 44 West of the 5th Principal Meridian, City of Council Bluffs, Pottawattamie County, Iowa more particularly described as follows:

Begin at the intersection of the West right-of-way line of North 40th Street with the centerline of Avenue B; thence West along the centerline of Avenue B approximately 2,500 feet to the Bulkhead line of the left (Easterly) shoreline of the Missouri River; thence Southerly along said line approximately 1,750 feet to the Southerly right-of-way line of Interstate Route I-480 being the Northerly right-of-way line of Old West Broadway; thence Easterly and Northeasterly along said line approximately 2,000 feet to the Northerly prolongation of the Easterly right-of-way line of 41st Street; thence Southerly along said prolongation and along the Westerly line of the parcel owned by Frito Lay Inc. 298 feet more or less to the South corner of said parcel; thence Northeasterly along the Southeasterly line of Frito Lay parcel 280 feet more or less; thence Southwesterly along the Frito Lay parcel 50 feet; thence Northeasterly along the Frito Lay parcel 670 feet to the East corner of the Frito Lay parcel; and to the Southerly right-of-way line of 37th Street Extension; thence Northwesterly/Westerly, and Southwesterly along said right-of-way line 340 feet more or less to the Southerly prolongation of the West right-of-way line of North 40th Street; thence North along said prolongation and along said line 1,100 feet more or less to the centerline of Avenue B and

the point of beginning. Said Urban Renewal tract contains 67.63 acres more or less.

(b) Amendment No. 1 Area shall mean that portion of the City of Council Bluffs, State of Iowa, described in Amendment No. 1 to the Urban Renewal Plan for the Playland Park Urban Renewal Area approved by Resolution No. 05-186 on June 27, 2005, which Amendment No. 1 Area includes the lots and parcels located within the area legally described as follows except those included in the Original Project Area as set out above:

Lots 174 through 185 in Twin City Gardens an Addition to the City of Council Bluffs, Iowa, part of Government Lot 3 and accretions thereto in the Southwest Quarter of the Southwest Quarter SW1/4SW1/4 of Section 28 and in the Southeast Quarter of the Southeast Quarter SE1/4SE1/4 of Section 29 and part of Government Lot 1 and accretions thereto in the Northeast Quarter of the Northeast Quarter NE1/4NE1/4 of Section 32 and in the Northwest Quarter of the Northwest Quarter NW1/4NW1/4 and Northeast Quarter of the Northwest Quarter NE1/4NW1/4 of Section 33, all in Township 75 North, Range 44 West of the Fifth Principal Meridian, City of Council Bluffs, Pottawattamie County, Iowa, more fully described as follows:

Beginning at the intersection of the westerly right-of-way line of North 40th Street with the centerline of Avenue B;

thence westerly along said centerline of Avenue B, 2,500 feet, more or less, to the easterly high bank of the Missouri River;

thence southerly, along said easterly high bank of the Missouri River, 1750 feet, more or less, to the southerly right-of-way line of Interstate Route I-480, said southerly right-of-way line also being the northerly right-of-way line of Old West Broadway;

thence easterly and northeasterly along said right-of-way lines, 2000 feet, more or less, to a point on the northerly prolongation of the easterly right-of-way line of 41st Street;

thence along said northerly prolongation and along said easterly right-of-way line, South 24 degrees 17 minutes 58 seconds East, 198.93 feet to a point on a northerly line of

property owned by the City of Council Bluffs (Dodge Park Golf Course);

thence along said northerly line, South 65 degrees 46 minutes 10 seconds West, 80.00 feet to a point on the westerly line of the said City of Council Bluffs property;

thence along said westerly line, South 24 degrees 20 minutes 58 seconds East, 303.68 feet;

thence North 80 degrees 28 minutes 59 seconds East, 62.63 feet to a point on a non-tangent curve, concave northwesterly, to which point a radial line bears South 9 degrees 16 minutes 53 seconds East, 257.12 feet;

thence northeasterly, along said curve, through a central angle of 96 degrees 06 minutes 50 seconds, 431.31 feet;

thence North 65 degrees 35 minutes 40 seconds East, 156.25 feet;

thence North 37 degrees 36 minutes 10 seconds East, 87.56 feet;

thence North 69 degrees 17 minutes 02 seconds East, 173.94 feet;

thence South 66 degrees 42 minutes 24 seconds East, 97.62 feet;

thence South 6 degrees 23 minutes 50 seconds East, 518.48 feet;

thence South 0 degrees 09 minutes 15 seconds West, 520.29 feet;

thence South 89 degrees 32 minutes 49 seconds East, 250.00 feet to a point on the southerly prolongation of the westerly line of Ferry Addition to the City of Council Bluffs;

thence along said southerly prolongation, along said westerly line of Ferry Addition and along its prolongation northerly, North 0 degrees 09 minutes 15 seconds East, 1104 feet to a

point on the southerly right-of-way line of the South 37th Street Extension;

thence in a general northwesterly and westerly direction along said southerly right-of-way line, 580 feet, more or less, to the intersection with the southerly prolongation of the westerly right-of-way line of said North 40th Street;

thence northerly, along said southerly prolongation and along said westerly right-of-way line 1050 feet, more or less, to the centerline of said Avenue B and the Point of Beginning.

Said parcel contains an area of 76.53 acres, more or less.

(c) Amendment No. 2 Area shall mean that portion of the City of Council Bluffs, State of Iowa, described in Amendment No. 2 to the Urban Renewal Plan for the Playland Park Urban Renewal Area approved by Resolution No. \_\_\_\_\_ on July 27, 2009, which Amendment No. 2 Area includes the lots and parcels located within the area legally described as follows:

(SOUTH PARCEL)

A PARCEL OF LAND BEING A PORTION OF THE ACCRETIONS TO GOVERNMENT LOTS 1, 2 AND 3, TOGETHER WITH RIPARIAN RIGHTS IN SECTION 33, TOWNSHIP 75 NORTH, RANGE 44 WEST OF THE 5<sup>th</sup> PRINCIPAL MERIDIAN, CITY OF COUNCIL BLUFFS, POTTAWATTAMIE COUNTY, IOWA, BEING MORE FULLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE SOUTH RIGHT-OF-WAY LINE OF WEST BROADWAY (I-480) AND THE EAST RIGHT-OF-WAY LINE OF THE COUNCIL BLUFFS MISSOURI RIVER LEVEE;

THENCE SOUTHERLY ALONG SAID EAST RIGHT-OF-WAY LINE, 2739 FEET (MORE OR LESS) TO A POINT ON THE EASTERLY PROLONGATION OF THE SOUTH BACK-OF-CURB LINE OF HARRAH'S CASINO NORTH PARKING LOT;

THENCE ALONG SAID EASTERLY PROLONGATION, ALONG SAID SOUTHERLY BACK-OF-CURB AND

ALONG IT'S WESTERLY PROLONGATION, SOUTH 64 DEGREES 10 MINUTES 04 SECONDS WEST, 564 FEET (MORE OR LESS) TO A POINT ON THE EAST HIGH BANK OF THE MISSOURI RIVER;

THENCE NORTHERLY, ALONG SAID EAST HIGH BANK, 2516 FEET (MORE OR LESS) TO A POINT ON SAID SOUTH RIGHT-OF-WAY LINE OF WEST BROADWAY (I-480);

THENCE EASTERLY, ALONG SAID SOUTH RIGHT-OF-WAY LINE, 675 FEET (MORE OR LESS) TO THE POINT OF BEGINNING.

SAID PARCEL CONTAINS AN AREA OF 25.6 ACRES, MORE OR LESS.

AND

(NORTH PARCEL)

A PARCEL OF LAND BEING A PORTION OF THE WEST HALF OF THE SOUTHWEST QUARTER (W1/2 SW1/4) IN SECTION 28 AND A PORTION OF THE EAST HALF OF THE SOUTHEAST QUARTER (E1/2 SE1/4) OF SECTION 29, ALL IN TOWNSHIP 75 NORTH, RANGE 44 WEST OF THE 5<sup>th</sup> PRINCIPAL MERIDIAN, CITY OF COUNCIL BLUFFS, POTTAWATTAMIE COUNTY, IOWA, BEING MORE FULLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE NORTH RIGHT-OF-WAY LINE OF AVENUE "B" AND THE EAST RIGHT-OF-WAY LINE OF THE COUNCIL BLUFFS MISSOURI RIVER LEVEE;

THENCE ALONG THE WESTERLY PROLONGATION OF SAID NORTH RIGHT-OF-WAY LINE, 895 FEET (MORE OR LESS) TO A POINT ON THE EAST HIGH BANK OF THE MISSOURI RIVER;

THENCE NORTHERLY, ALONG SAID EAST HIGH BANK, 1666 FEET (MORE OR LESS) TO A POINT ON

THE WESTERLY PROLONGATION OF THE NORTH  
RIGHT-OF-WAY LINE OF AVENUE "G";

THENCE ALONG SAID WESTERLY PROLONGATION,  
SOUTH 88 DEGREES 34 MINUTES 53 SECONDS EAST,  
1369 FEET (MORE OR LESS) TO A POINT ON THE  
EAST RIGHT-OF-WAY LINE OF SAID COUNCIL  
BLUFFS MISSOURI RIVER LEVEE;

THENCE SOUTHWESTERLY, ALONG SAID EAST  
RIGHT-OF-WAY LINE, 1793 FEET (MORE OR LESS) TO  
THE POINT OF BEGINNING.

SAID PARCEL CONTAINS AN AREA OF 45.87 ACRES,  
MORE OR LESS.

(d) Amended Project Area shall mean that portion of the City of Council Bluffs, State of Iowa, included within the Original Project Area, the Amendment No. 1 Area and the Amendment No. 2 Area, which Amended Project Area includes the lots and parcels located within the area legally described as follows:

ORIGINAL AND AMENDMENT NO. 1 AREA

Lots 174 through 185 in Twin City Gardens an Addition to the City of Council Bluffs, Iowa, part of Government Lot 3 and accretions thereto in the Southwest Quarter of the Southwest Quarter SW1/4SW1/4 of Section 28 and in the Southeast Quarter of the Southeast Quarter SE1/4SE1/4 of Section 29 and part of Government Lot 1 and accretions thereto in the Northeast Quarter of the Northeast Quarter NE1/4NE1/4 of Section 32 and in the Northwest Quarter of the Northwest Quarter NW1/4NW1/4 and Northeast Quarter of the Northwest Quarter NE1/4NW1/4 of Section 33, all in Township 75 North, Range 44 West of the Fifth Principal Meridian, City of Council Bluffs, Pottawattamie County, Iowa, more fully described as follows:

Beginning at the intersection of the westerly right-of-way line of North 40th Street with the centerline of Avenue B;

thence westerly along said centerline of Avenue B, 2,500 feet, more or less, to the easterly high bank of the Missouri River;

thence southerly, along said easterly high bank of the Missouri River, 1750 feet, more or less, to the southerly right-of-way line of Interstate Route I-480, said southerly right-of-way line also being the northerly right-of-way line of Old West Broadway;

thence easterly and northeasterly along said right-of-way lines, 2000 feet, more or less, to a point on the northerly prolongation of the easterly right-of-way line of 41st Street;

thence along said northerly prolongation and along said easterly right-of-way line, South 24 degrees 17 minutes 58 seconds East, 198.93 feet to a point on a northerly line of property owned by the City of Council Bluffs (Dodge Park Golf Course);

thence along said northerly line, South 65 degrees 46 minutes 10 seconds West, 80.00 feet to a point on the westerly line of the said City of Council Bluffs property;

thence along said westerly line, South 24 degrees 20 minutes 58 seconds East, 303.68 feet;

thence North 80 degrees 28 minutes 59 seconds East, 62.63 feet to a point on a non-tangent curve, concave northwesterly, to which point a radial line bears South 9 degrees 16 minutes 53 seconds East, 257.12 feet;

thence northeasterly, along said curve, through a central angle of 96 degrees 06 minutes 50 seconds, 431.31 feet;

thence North 65 degrees 35 minutes 40 seconds East, 156.25 feet;

thence North 37 degrees 36 minutes 10 seconds East, 87.56 feet;

thence North 69 degrees 17 minutes 02 seconds East, 173.94 feet;

thence South 66 degrees 42 minutes 24 seconds East, 97.62 feet;



thence South 6 degrees 23 minutes 50 seconds East, 518.48 feet;

thence South 0 degrees 09 minutes 15 seconds West, 520.29 feet;

thence South 89 degrees 32 minutes 49 seconds East, 250.00 feet to a point on the southerly prolongation of the westerly line of Ferry Addition to the City of Council Bluffs;

thence along said southerly prolongation, along said westerly line of Ferry Addition and along its prolongation northerly, North 0 degrees 09 minutes 15 seconds East, 1104 feet to a point on the southerly right-of-way line of the South 37th Street Extension;

thence in a general northwesterly and westerly direction along said southerly right-of-way line, 580 feet, more or less, to the intersection with the southerly prolongation of the westerly right-of-way line of said North 40th Street;

thence northerly, along said southerly prolongation and along said westerly right-of-way line 1050 feet, more or less, to the centerline of said Avenue B and the Point of Beginning.

Said parcel contains an area of 76.53 acres, more or less.

#### AMENDMENT NO. 2 AREA

(SOUTH PARCEL)

A PARCEL OF LAND BEING A PORTION OF THE ACCRETIONS TO GOVERNMENT LOTS 1, 2 AND 3, TOGETHER WITH RIPARIAN RIGHTS IN SECTION 33, TOWNSHIP 75 NORTH, RANGE 44 WEST OF THE 5<sup>th</sup> PRINCIPAL MERIDIAN, CITY OF COUNCIL BLUFFS, POTTAWATTAMIE COUNTY, IOWA, BEING MORE FULLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE SOUTH RIGHT-OF-WAY LINE OF WEST BROADWAY (I-480)

AND THE EAST RIGHT-OF-WAY LINE OF THE  
COUNCIL BLUFFS MISSOURI RIVER LEVEE;

THENCE SOUTHERLY ALONG SAID EAST RIGHT-OF-  
WAY LINE, 2739 FEET (MORE OR LESS) TO A POINT  
ON THE EASTERLY PROLONGATION OF THE SOUTH  
BACK-OF-CURB LINE OF HARRAH'S CASINO NORTH  
PARKING LOT;

THENCE ALONG SAID EASTERLY PROLONGATION,  
ALONG SAID SOUTHERLY BACK-OF-CURB AND  
ALONG IT'S WESTERLY PROLONGATION, SOUTH 64  
DEGREES 10 MINUTES 04 SECONDS WEST, 564 FEET  
(MORE OR LESS) TO A POINT ON THE EAST HIGH  
BANK OF THE MISSOURI RIVER;

THENCE NORTHERLY, ALONG SAID EAST HIGH  
BANK, 2516 FEET (MORE OR LESS) TO A POINT ON  
SAID SOUTH RIGHT-OF-WAY LINE OF WEST  
BROADWAY (I-480);

THENCE EASTERLY, ALONG SAID SOUTH RIGHT-OF-  
WAY LINE, 675 FEET (MORE OR LESS) TO THE POINT  
OF BEGINNING.

SAID PARCEL CONTAINS AN AREA OF 25.6 ACRES,  
MORE OR LESS.

AND

(NORTH PARCEL)

A PARCEL OF LAND BEING A PORTION OF THE WEST  
HALF OF THE SOUTHWEST QUARTER (W1/2 SW1/4)  
IN SECTION 28 AND A PORTION OF THE EAST HALF  
OF THE SOUTHEAST QUARTER (E1/2 SE1/4) OF  
SECTION 29, ALL IN TOWNSHIP 75 NORTH, RANGE 44  
WEST OF THE 5<sup>th</sup> PRINCIPAL MERIDIAN, CITY OF  
COUNCIL BLUFFS, POTTAWATTAMIE COUNTY,  
IOWA, BEING MORE FULLY DESCRIBED AS  
FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE NORTH RIGHT-OF-WAY LINE OF AVENUE "B" AND THE EAST RIGHT-OF-WAY LINE OF THE COUNCIL BLUFFS MISSOURI RIVER LEVEE;

THENCE ALONG THE WESTERLY PROLONGATION OF SAID NORTH RIGHT-OF-WAY LINE, 895 FEET (MORE OR LESS) TO A POINT ON THE EAST HIGH BANK OF THE MISSOURI RIVER;

THENCE NORTHERLY, ALONG SAID EAST HIGH BANK, 1666 FEET (MORE OR LESS) TO A POINT ON THE WESTERLY PROLONGATION OF THE NORTH RIGHT-OF-WAY LINE OF AVENUE "G";

THENCE ALONG SAID WESTERLY PROLONGATION, SOUTH 88 DEGREES 34 MINUTES 53 SECONDS EAST, 1369 FEET (MORE OR LESS) TO A POINT ON THE EAST RIGHT-OF-WAY LINE OF SAID COUNCIL BLUFFS MISSOURI RIVER LEVEE;

THENCE SOUTHWESTERLY, ALONG SAID EAST RIGHT-OF-WAY LINE, 1793 FEET (MORE OR LESS) TO THE POINT OF BEGINNING.

SAID PARCEL CONTAINS AN AREA OF 45.87 ACRES, MORE OR LESS.

Section 2: The taxes levied on the taxable property in the Amended Project Area, legally described in Section 1 hereof, by and for the benefit of the State of Iowa, City of Council Bluffs, County of Pottawattamie, Council Bluffs Community School District, and all other taxing districts from and after the effective date of this Ordinance shall be divided as hereinafter in this Ordinance provided.

Section 3: As to the Original Project Area, that portion of the taxes which would be produced by the rate at which the tax is levied each year by or for each of the taxing districts taxing property in the Original Project Area upon the total sum of the assessed value of the taxable property in the Original Project Area as shown on the assessment roll as of January 1, 2002, being the first day of the calendar year preceding the effective date of Ordinance No. 5766, shall be allocated to and when collected be paid into the fund for the respective taxing district as taxes by or for the taxing district into which all other property taxes are paid. The taxes so determined shall be referred herein as the "base period taxes" for such area.

As to Amendment No. 1 Area, base period taxes shall be computed in the same manner using the total assessed value shown on the assessment roll as of January 1, 2004, being the assessment roll applicable to property in such area as of January 1 of the calendar year preceding the effective date of Ordinance No. 5859.

As to Amendment No. 2 Area, base period taxes shall be computed in the same manner using the total assessed value shown on the assessment roll as of January 1, 2008, being the assessment roll applicable to property in such area as of January 1 of the calendar year preceding the effective date of this Ordinance.

Section 4: That portion of the taxes each year in excess of the base period taxes for the Amended Project Area, determined for each sub-area thereof as provided in Section 3 of this Ordinance, shall be allocated to and when collected be paid into the special tax increment fund previously established by the City of Council Bluffs, State of Iowa, to pay the principal of and interest on loans, monies advanced to, or indebtedness, whether funded, refunded, assumed or otherwise, including bonds issued under authority of Section 403.9 or Section 403.12 of the Code of Iowa, incurred by the City of Council Bluffs, State of Iowa, to finance or refinance, in whole or in part, urban renewal projects undertaken within the Amended Project Area pursuant to the Urban Renewal Plan, as amended, except that taxes for the regular and voter-approved physical plant and equipment levy of a school district imposed pursuant to Section 298.2, but only to the extent authorized in Section 403.19(2), and taxes for payment of bonds and interest of each taxing district shall be collected against all taxable property within the Amended Project Area without any limitation as hereinabove provided.

Section 5: Unless or until the total assessed valuation of the taxable property in the areas of the Amended Project Area exceeds the total assessed value of the taxable property in the areas shown by the assessment rolls referred to in Section 3 of this Ordinance, all of the taxes levied and collected upon the taxable property in the Amended Project Area shall be paid into the funds for the respective taxing districts as taxes by or for the taxing districts in the same manner as all other property taxes.

Section 6: At such time as the loans, monies advanced, bonds and interest thereon and indebtedness of the City of Council Bluffs, State of Iowa, referred to in Section 4 hereof have been paid, all monies thereafter received from taxes upon the taxable property in the Amended Project Area shall be paid into the funds for the respective taxing districts in the same manner as taxes on all other property.

Section 7: All ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed. The provisions of this Ordinance are intended and shall be construed so as to continue the division of taxes from property within the Original Project Area and Amendment No. 1 Area under the provisions of Section 403.19

of the Code of Iowa, as authorized in Ordinance Nos. 5766 and 4859, and to fully implement the provisions of Section 403.19 of the Code of Iowa with respect to the division of taxes from property within the Amendment No. 2 Area as described above. In the event that any provision of this Ordinance shall be determined to be contrary to law it shall not affect other provisions or application of this Ordinance which shall at all times be construed to fully invoke the provisions of Section 403.19 of the Code of Iowa with reference to the Amended Project Area and the territory contained therein.

Section 8: This Ordinance shall be in effect after its final passage, approval and publication as provided by law.

PASSED AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

\_\_\_\_\_  
Thomas P. Hanafan, Mayor

ATTEST:

\_\_\_\_\_  
Marcia L. Worden, Acting City Clerk

Read First Time: July 27, 2009 Vote for passage:

Read Second Time: August 10, 2009 Vote for passage:

Read Third Time: \_\_\_\_\_, 2009 Vote for passage:

PASSED AND APPROVED: \_\_\_\_\_, 2009

I, Marcia L. Worden, Acting City Clerk of the City of Council Bluffs, State of Iowa, hereby certify that the above and foregoing is a true copy of Ordinance No. \_\_\_\_\_ passed and approved by the City Council of the City at a meeting held \_\_\_\_\_, 2009, signed by the Mayor on \_\_\_\_\_, 2009, and published in the "Daily Nonpareil" on \_\_\_\_\_, 2009.

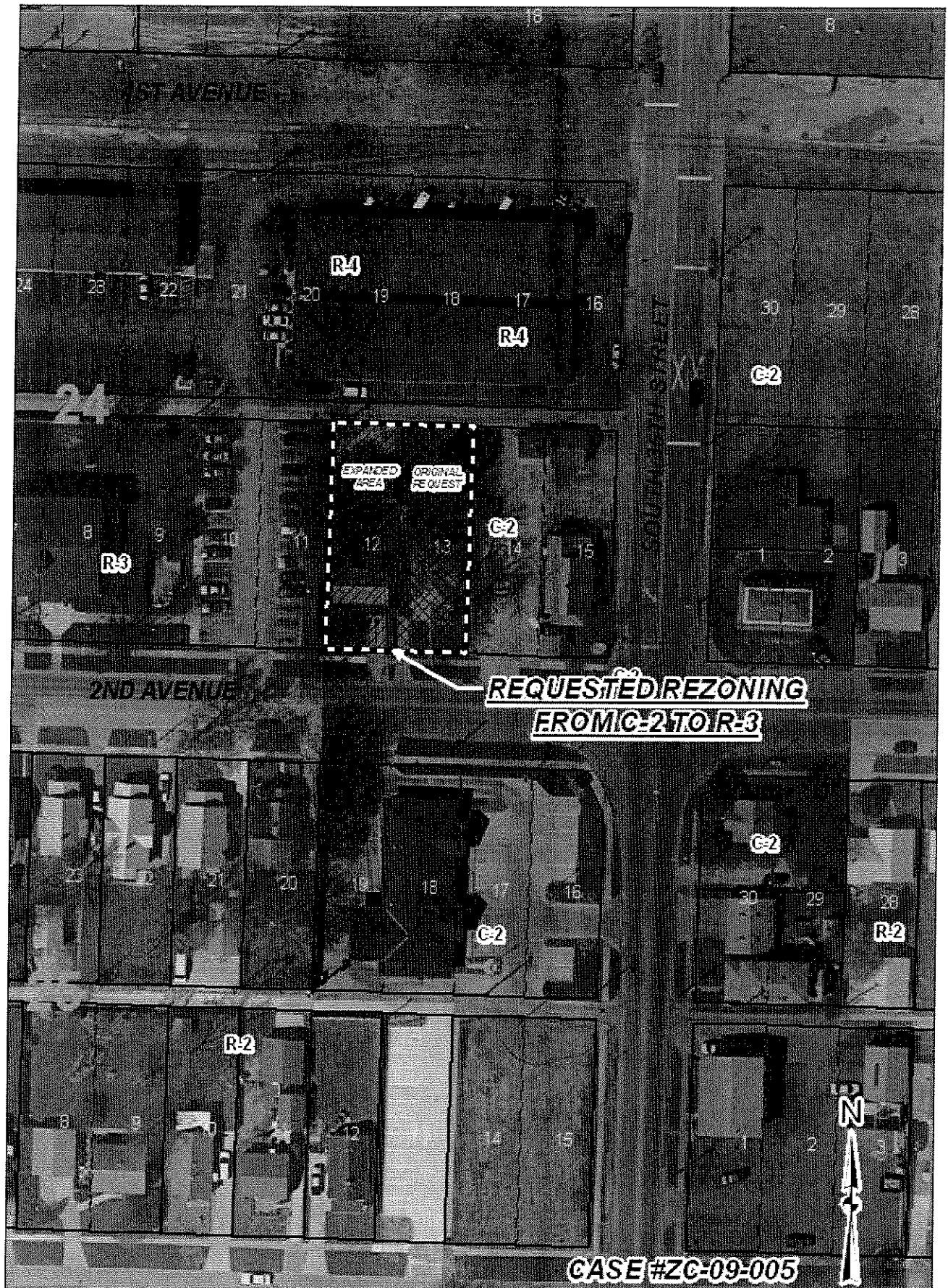
\_\_\_\_\_  
Marcia L. Worden, Acting City Clerk  
City of Council Bluffs, State of Iowa

(SEAL)

DLILLEBO/ 624478.1 /MSWord10342.091

## Council Communication

Department: Community Development		City Council: July 27, 2009 Planning Commission: July 14, 2009 First Reading: July 27, 2009 Second Reading: August 10, 2009 Third Reading:
Case No. ZC-09-005	Ordinance No. <u>6038</u>	
Applicant: Delilah L. Stogdill, et al and Community Development		
<b>Subject</b> Request of Delilah L. Stogdill, et al, 556 Frank Street, Council Bluffs, IA 51503, represented by Jack E. Ruesch, 25 Main Place, Ste 200, PO Box 248, Council Bluffs, IA 51502 to rezone 3506 – 2 <sup>nd</sup> Avenue (Lot 13, Block 24, Ferry Addition) from C-2 Commercial to R-3/Low Density Multi-Family Residential. The Community Development Department expanded the rezoning request to include 3510 – 2 <sup>nd</sup> Avenue (Lot 12) which abuts directly on the west.		
<b>Background</b> The above mentioned property is currently zoned C-2 Commercial and is the site of two single family structures. The prior owner of 3506 – 2 <sup>nd</sup> Avenue is deceased and the estate cannot sell the property because the purchaser cannot get financing due to the current C-2 zoning. The Community Development Department expanded the requested rezoning to include the property to the west (3510 – 2 <sup>nd</sup> Avenue). The R-3 designation is being requested because it is a natural extension of the existing R-3 zoning to the west.  Land uses surrounding the subject properties include multi-family structures to the north and west, commercial uses to the east and south and single family residential to the southwest. Surrounding zoning is shown on the attached map.  There has been no comment from LLEM Real Property, c/o Mark Mell, the owner of 3510 – 2 <sup>nd</sup> Avenue. One property owner within 200 feet requested additional information.  No adverse comments have been received from any City department or utility.		
<b>Discussion</b> The requested rezoning is consistent with the Land Use map of the 1994 Comprehensive Plan which shows these properties as Multi-Family Residential and will bring two residential uses into compliance with the Zoning Ordinance.		
<b>Recommendation</b> The Community Development Department recommends rezoning Lots 12 and 13, Block 24, Ferry Addition from C-2 Commercial to R-3/Low Density Multi-Family Residential.		
<b>Public Hearing</b> Jack Ruesch, representing the applicants, appeared before the Planning Commission in favor of the request. No one appeared in opposition.		
<b>Planning Commission Recommendation</b> The Planning Commission recommends rezoning Lots 12 and 13, Block 24, Ferry Addition from C-2 Commercial to R-3/Low Density Multi-family Residential for the reasons cited in the staff report.		
VOTE: AYE 9 NAY 0 ABSTAIN 0 ABSENT 2 Motion: Carried		
<b>Attachments:</b> Map showing proposed rezoning area and surrounding zoning.		
<b>Prepared By:</b> Rebecca Sall, Planning Technician, Community Development Department		





ORDINANCE NO 6038

AN ORDINANCE TO AMEND THE ZONING MAP OF THE CITY OF COUNCIL BLUFFS, IOWA, AS ADOPTED BY REFERENCE IN SECTION 15.02.040 OF THE 2005 MUNICIPAL CODE OF COUNCIL BLUFFS, IOWA, BY CHANGING THE DISTRICT DESIGNATION OF CERTAIN GROUNDS, PREMISES AND PROPERTY LOCATED AT 3506 2<sup>ND</sup> AVENUE AND 3510 2<sup>ND</sup> AVENUE FROM C-2/COMMERCIAL TO R-3/LOW DENSITY MULTI-FAMILY RESIDENTIAL, AS SET FORTH AND DEFINED IN CHAPTERS 15.15 AND 15.10 OF THE 2005 MUNICIPAL CODE OF COUNCIL BLUFFS, IOWA.

BE IT ORDAINED  
BY THE CITY COUNCIL  
OF THE  
CITY OF COUNCIL BLUFFS, IOWA:

SECTION 1. That the Zoning Map of the City of Council Bluffs, Iowa, as adopted by reference in Section 15.02.040 of the 2005 Municipal Code of the City of Council Bluffs, Iowa, be and the same is hereby amended by changing the district designation of certain grounds, property and premises located at 3506 2<sup>nd</sup> Avenue and 3510 2<sup>nd</sup> Avenue, legally described as follows:

Lots 12 and 13, Block 24, Ferry Addition, in Council Bluffs, Pottawattamie County, Iowa,

from its present designation as C-2/Commercial to R-3/Low Density Multi-Family Residential, as set forth and defined in Chapters 15.15 and 15.11 of the 2005 Municipal Code of Council Bluffs, Iowa.

SECTION 2. Repealer. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. Effective Date. This ordinance shall be in full force and effect from and after its final passage, approval and publication, as by law provided.

PASSED  
AND \_\_\_\_\_, 2009  
APPROVED

\_\_\_\_\_  
THOMAS P. HANAFAN Mayor

Attest:

\_\_\_\_\_  
MARCIA L. WORDEN Acting City Clerk

FIRST CONSIDERATION: July 27, 2009  
SECOND CONSIDERATION: August 10, 2009  
PUBLIC HEARING: \_\_\_\_\_  
THIRD CONSIDERATION: \_\_\_\_\_

Planning Case No. ZC-09-005

## Council Communication

Department: Community Development Applicant: Crossroads of Western Iowa Case No. ZT-09-003	Ordinance No. <u>6039</u>	City Council: July 27, 09 Planning Commission Meeting: July 14, 09 First Reading: July 27, 09 Second Reading: Aug. 10, 09 Third Reading:
<p style="text-align: center;"><b>Subject/Title</b></p> <p>Amend 15.03.271 'Family Home' of the Municipal Code (Zoning Ordinance) as follows:</p> <p><b>15.03.271 Family home.</b> <i>A community-based residential home licensed:</i></p> <ol style="list-style-type: none"> <li>01. <i>as a residential care facility under Iowa Code Chapter 135C; or</i></li> <li>02. <i>as a child foster care facility under Iowa Code Chapter 237; or</i></li> <li>03. <i>as an elder family home under Iowa Code Chapter 231A; or</i></li> <li>04. <i>as an elder group home under Iowa Code Chapter 231B; or</i></li> <li>05. <i>as a residential care facility under Iowa Code Chapter 135C for not more than eight developmentally disabled persons and any necessary support personnel; or</i></li> <li>06. <i>as a child foster care facility licensed under Iowa Code Chapter 237 for not more than eight developmentally disabled children and any necessary support personnel; or</i></li> <li>07. <i>and designated under Iowa law as a 'family home'</i></li> <li>08. <i>Family home does not mean an individual foster care home licensed under Iowa Code Chapter 237. A family home shall be a permitted use in all residential zoning districts; however, new family homes owned and operated by public or private agencies shall not be located within contiguous city block areas. (Ord. 5222, Sec. 16, 6/12/95)</i></li> <li>09. <u><i>a residential home accredited and/or certified by the Iowa Department of Human Services, but not required to be licensed as a health care facility under Iowa Code 135C.6. The home shall provide care for not more than four individuals under a Home and Community Based Service (HCBS) waiver program for persons with mental retardation or other medical assistance programs provided for under Iowa Code Chapter 249A.</i></u></li> </ol>		
<p style="text-align: center;"><b>Background/Discussion</b></p> <p>The definition of 'Family Home' includes a variety of State licensed residential uses. The type of residential use operated by the Crossroads of Western Iowa is exempt from the licensing requirement of Iowa Code Section 135C. The use is regulated by the Iowa Department of Human Services and operates as a Home and Community Based Service (HCBS) waiver program. The program is for people with mental retardation or other medical assistance needs.</p> <p>The City definition of 'Family Home' does not include the activities exempted by Iowa Code Chapter 135C. The requested amendment would include such uses in the definition. 'Family Homes' are permitted in all residential zoning districts. The program operated by Crossroads of Western Iowa often rents a residential unit to at least two people at the same location. Multi-family uses are not permitted in all zoning districts which currently limits the locations within the community where Crossroads of Western Iowa can assist with residential needs. The amendment will allow persons served by the waiver program to live and work throughout the Council Bluffs community.</p>		

### **Recommendation**

The Community Development Department recommends amending Title 15 of the Municipal Code (Zoning Ordinance) as follows:

15.03.271 'Family Home' –*A community-based residential home licensed:*

01. *as a residential care facility under Iowa Code Chapter 135C; or*
02. *as a child foster care facility under Iowa Code Chapter 237; or*
03. *as an elder family home under Iowa Code Chapter 231A; or*
04. *as an elder group home under Iowa Code Chapter 231B; or*
05. *as a residential care facility under Iowa Code Chapter 135C for not more than eight developmentally disabled persons and any necessary support personnel; or*
06. *as a child foster care facility licensed under Iowa Code Chapter 237 for not more than eight developmentally disabled children and any necessary support personnel; or*
07. *and designated under Iowa law as a 'family home'*
08. *Family home does not mean an individual foster care home licensed under Iowa Code Chapter 237. A family home shall be a permitted use in all residential zoning districts; however, new family homes owned and operated by public or private agencies shall not be located within contiguous city block areas. (Ord. 5222, Sec. 16, 6/12/95)*
09. *a residential home accredited and/or certified by the Iowa Department of Human Services, but not required to be licensed as a health care facility under Iowa Code 135C.6. The home shall provide care for not more than four individuals under a Home and Community Based Service (HCBS) waiver program for persons with mental retardation or other medical assistance programs provided for under Iowa Code Chapter 249A.*

### **Public Hearing**

The following appeared before the Planning Commission in favor of the request: representing Crossroads of Western Iowa, Brent Dillinger, CEO, 1529 9<sup>th</sup> Avenue, Council Bluffs, IA 51501; Amy Ebsen, 302 Riordan Street, Crescent, IA 51526; Kim Coffelt, 101 Helen Avenue, Council Bluffs, IA 51503; Mike Kenealy, 2922 Eagle Ridge Drive, Missouri Valley, IA 51555. No one appeared in opposition.

### **Planning Commission Recommendation**

The Planning Commission recommends amending §15.03.271 the definition of 'Family Home' of the Municipal Code (Zoning Ordinance) by adding a new 09., as presented above.

VOTE: AYE 9    NAY 0    ABSTAIN 0    ABSENT 2    Motion: Carried

Prepared by: Rose E. Brown, Urban Planner

ORDINANCE NO. 6039

AN ORDINANCE to amend Chapter 15.03 “Definitions” of the 2005 Municipal Code of Council Bluffs, Iowa, by amending Section 15.03.271 “Family Home”.

BE IT ORDAINED  
BY THE CITY COUNCIL  
OF THE  
CITY OF COUNCIL BLUFFS, IOWA:

SECTION 1. That Chapter 15.03 “Definitions” of the 2005 Municipal Code of Council Bluffs, Iowa, be and the same is hereby amended by repealing Section 15.03.271, “Family Home” and by enacting a new Section 15.03.271, “Family Home”, to read as follows:

**“15.03.271 Family home.** A community-based residential home licensed:

- (1) as a residential care facility under Iowa Code Chapter 135C; or
- (2) as a child foster care facility under Iowa Chapter 237; or
- (3) as an elder family home under Iowa Code Chapter 231A; or
- (4) as an elder group home under Iowa Code Chapter 231B; or
- (5) as a residential care facility under Iowa Code Chapter 135C for not more than eight developmentally disabled persons and any necessary support personnel; or
- (6) as a child foster care facility licensed under Iowa Code Chapter 237 for not more than eight developmentally disabled children and any necessary support personnel; or
- (7) and designated under Iowa law as a ‘family home’.

(8) Family home does not mean an individual foster care home licensed under Iowa Code Chapter 237. A family home shall be a permitted use in all residential zoning districts; however, new family homes owned and operated by public or private agencies shall not be located within contiguous city block areas;

(9) a residential home accredited and/or certified by the Iowa Department of Human Services, but not required to be licensed as a health care facility under Iowa Code 135C.6. The home shall provide care for not more than four individuals under a Home and Community Based Service (HCBS) waiver program for persons with mental retardation or other medical assistance programs provided for under Iowa Code Chapter 249A.

SECTION 2. REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed. This is Ord. 5222 § 16, 1995.

SECTION 3. SEVERABILITY CLAUSE. If any of the provisions of this ordinance are for any reason declared illegal or void, then the lawful provisions of this ordinance which are severable

from said unlawful provisions shall be and remain in full force and effect, the same as if the ordinance contained no illegal or void provisions.

SECTION 4. EFFECTIVE DATE. This ordinance shall be in full force and effect from and after its final passage and publication, as by law provided.

PASSED  
AND \_\_\_\_\_, 2009  
APPROVED

\_\_\_\_\_  
THOMAS P. HANAFAN Mayor

Attest:

\_\_\_\_\_  
MARCIA L. WORDEN Acting City Clerk

First Consideration: July 27, 2009  
Second Consideration: August 10, 2009  
Public Hearing: \_\_\_\_\_  
Third Consideration: \_\_\_\_\_

Planning Case ZT-09-003